Supreme Court, U.S.
FILED

No 06-_____ 051537 JAN 10 2006

OFFICE OF THE CLERK

IN THE
SUPREME COURT OF THE UNITED STATES

CLEMENT MOMAH, MD

Petitioner

v.

STATE BOARD OF PHYSICIANS
MARYLAND DEPARTMENT OF HEALTH AND MENTAL HYGIENE

Respondent

On Petition for a Writ of Certiorari to the Maryland Court of Appeals

PETITION FOR A WRIT OF CERTIORARI

CLEMENT I MOMAH, MD
7403 Innis Court
Beltsville, Maryland 20705
Petitioner Pro Se

QUESTIONS PRESENTED

Whether the State of Maryland Court of Appeals erred in holding as no showing of Desire and Public Interest, such Showing of Desire and Public Interest for the Recommended Informed Consent Use of Prayer and Spiritual Healing by Physicians in the Practice of Medicine in the United States, through federal Government authority and sponsorship by the Congress of the United States through the National Institute of Health (NIH) and through the Institute of Medicine (IOM) by the National Center for Complementary and Alternative Medicine (NCCAM) and whether this requires the State of Maryland (and other States with Court decisions as conflicting with Texas Criminal Court of Appeals decision Ex Parte Halsted, 182 S.W.2d 479, 1944.); and Constitution of the State of Texas Article 16, Section 31: The Legislature may pass laws prescribing the qualifications of practitioners of Medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of Medicine) to review state action and procedures with First Amendment "Free Exercise of Religion Clause" Violation of the United States Constitution, (and of Massachusett Highest Courts and review of any legal Prohibition of Prayer and Spiritual Healing by Physicians and Nursing Teams in Medical Practice with Adoption of the NIH Scientific Evidence for Safety and Treatment Effectiveness of the Healing Modality, with legal regard directed to "the focus of Healing" as distinct from a religious ritual, and thus not subject to First Amendment "Prohibition of Establishment of Religion Clause" of the United States Constitution; legal acceptance of the medical necessity of the Healing of the Spirit, the "Heart," the Soul, the Mind and the Body of man's being; as part of the Faith-based Initiative in the Practice of Medicine.

(Schools of Medicine" has been settled by the Texas Criminal Court of Appeals to mean "system, means, or method employed or schools of thought accepted by practitioner" Ex Parte Halsted, 182 S.W.2d 479, 1944.);

2 Whether the State of Maryland's seizure, search and closure of a lawful Professional Business (abolishing a Medical Business) before " 'Probable Cause' confirmed with a Judicial Warrant" by
(a) compelled examination under disciplinary investigation of Psychiatric and Psychology before finding by the State of "probable cause"
(b) suspension of Medical License and closure of Professional Business before finding by the State of "Probable Cause confirmed by Judicial Officer Warrant" are State actions in violation of the Fourth Amendment of the United States Constitution enforceable through the Due Process Clause of the Fourteenth Amendment of the United States Constitution
(c) use of psychologist/psychiatrist with religious hostility lacking current knowledge in Personality Testing specific to Christianity Personality Belief Systems in violation of "the Free Exercise of Religion Clause" First Amendment enforceable through the Due Process Clause of the Fourteenth Amendment of the United States.
(d) failure of separation of Prosecutorial functions and Final Judicial Decision Maker in Administrative Procedural Process resulting in Procedures with Prosecutorial Post Hoc Decisions in violation of the United States Constitution.

3 Whether the State of Maryland Court of Appeals erred in ruling to exclude Additional Relevant and Exonerating Evidence in conflict with the Federal Rules of Evidence 402 on Inclusion of Additional Relevant Exonerating Evidence in Administrative Procedure Hearings, legislated by the

Congress of the United States as Legislative Statutes and so recognized as equivalent and acted upon through Jurisprudence and Common Law by this Supreme Court of the United States

4 Whether a lawful and timely Petition for Judicial Review of Agency Administrative Procedure decisions to the State of Maryland tried by a disabled Judge, requires by the Jurisprudence and Common Law practice of the Supreme Court and the United States Constitution to be corrected by competent Judicial Review as a priority constitutional right not to be preempted by any other operative rules of the Court.

5 Whether the State Board of Physician's Selection of its Endocrinology Expert, after Summarily Suspending Petitioner, for a retroactive establishment of this Suspension decision against Petitioner ex post facto was unconstitutional and prohibited by the Fourth Amendment and Article 1 Section 10 of the US Constitution the Contract Clause, and an infringement of Physician's Individual Rights of Due Process Protection under the Fourteenth Amendment of the US Constitution

LIST OF PARTIES AND RULE 29(6) STATEMENT

The list of parties at the Maryland Court of Appeals is shown on the caption cover.

Dr Clement Momah is a private physician in Business Practices in Maryland, was Assistant Medical Director of the PrimeHealth HMO Corporation, and is also an ordained Christian Minister of the Gospel of Jesus the Christ

TABLE OF CONTENTS

QUESTIONS PRESENTED i

LIST OF PARTIES..... ii

TABLE OF AUTHORITIES..... v

OPINIONS BELOW.....1

JURISDICTION..... 2

CONSTITUTIONAL AND STATUTORY
PROVISIONS INVOLVED..... 2

STATEMENT..... 3

REASONS FOR GRANTING THE WRIT..... 7
I
II
III
IV
V
CONCLUSION..... 30

TABLE OF AUTHORITIES

CASES

Grisworld v Connecticut 381 US 478, 85 S Ct 1678, 14 L Ed 2d 510 (1965)
Daubert v. Merrell Dow Pharmaceuticals, Inc –US--, 113 S Ct, 2786 (1993)
Kumho Tire Co, Ltd et al v Carmichael 119 S Ct 1167 (1999)
Gomillion v Lightfoot 364 US 399 (1960)
Wasberry v Sanders 376 US 1: (1964)
United States v Gould, 741 F. 2d 45 (4th Cir. 1984)
Donovan v Dewey__US__101 S.Ct. 2534 (1981)
Terry v Ohio 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d. 889 (1968)
Marshall v Barlow's Inc 436 US 307 (1978)
United States v Biswell, 406 US 311 (1972)
Arkansas v Sanders 442 U.S. 753, 99 S.Ct 2586, 61 L Ed 2d 235 (1979)

Good News Club v. Milford Central School opinied June 11, 2001.: " The State's power to restrict Speech, however, is not without its limits. The restriction must not discriminate against Speech on the basis of viewpoint (mindset or belief) and the restriction must be reasonable in light of the purpose served by the forum" Terry v Ohio

Mathews v Eldridge, 424 US. 319, 334, 96 S. Ct. 893, 902, 47L. Ed. 2d 18, 13 (1976)
FDA et al v Brown & Williamson Tobacco Corp. 529 US. 120, 120 S. Ct. 1291, 146 L Ed. 2d 121 (2000)

CONSTITUTIONAL PROVISIONS

Amendment XIV
Due Process Clause

Equal Protection Clause
Amendment I
Free Exercise of Religion Clause
Prohibition of the Establishment of Religion Clause
Amendment IV
The Right of the people to be secure in their person Clause
Judicial Warrants upon Probable Cause, supported by Oath or Affirmation
Freedom to Associate and Privacy in One's Association Clause of First Amendment
Amendment 15

Article 1 Section 10 US Constitution

Impairment of the Obligation of Contracts for Public Safety, Health and Benefit

Article I Section 8 US Constitution
Promotion of the Progress of Science Clause
The Congress shall have Power....To Promote the Progress of Science and Useful Arts

Amendment V
US Constitution Article VI: Debts, Supremacy, Oath
The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all Executive and Judicial Officers, both of the United States and of the several States, shall be bound by Oath or Affirmation to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or Public Trust under the United States.

MARYLAND
Article 19 Maryland Declaration of Rights Maryland Constitution, Declaration of Rights. Art 19 provides in pertinent part: "That every man, for any injury done to him in his person or property, ought to have remedy by

the course of the Law of the Land, and ought to have Justice and Right, **freely without sale, fully without denial, and speedily without delay,** according to the law of the Land"
Article 6.: Legislators and Executive Officers are Trustees of Public; Right of People to reform or establish New Government

That all Persons invested with the Legislative or Executive Powers of Government are the Trustees of the Public, and, are as such, accountable for their conduct. Wherefore, whenever the ends of Government are perverted, and Public Liberty manifestly endangered and all other means of redress are ineffectual, the People may, and of right ought, to reform the old or establish a new Government, the doctrine of non-resistance against arbitrary power and oppression is absurd,slavish and destructive of the good and happiness of mankind.

STATUTES AND RULES

Federal Rules of Evidence

Federal Rule 401: "Relevant Evidence" is defined as that which has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence"
Federal Rule 402: All Additional Relevant Evidence is admissible
Federal Rule 702: Nothing in the Rules as a whole or in the Test and Drafting History of Rule 702, which specifically governs expert testimony, gives any indication that "general acceptance" is necessary precondition to the admissibility of scientific evidence 509 US 579, 7
Public Law 107-293-Nov 13th, 2002) The Pledge

Public Law 105-277 (1998) establishing the National Center for Complementary and Alternative Medicine (NCCAM)

APA (Section 557 of the Administrative Procedure Act, 5 U.S.C. 557 states: Any Commission Officer, employee or agent engaged in the performance of investigative or prosecutorial functions for the Commission (or Agency) in a proceeding as defined in section 201.101

(a) may not, in that proceeding or one that is factually related, participate or advise in the decision, or in Commission Review pursuant to Section 557 of the APA 5U.S.C. 557, except as a witness or counsel in the proceeding

(b)

COMAR 10.32
MISCELLANEOUS

1)Complementary and Alternative Medicine in the United States. Institute of Medicine of the National Academies. National Center for Complementary and Alternative Medicine. National Institute of Health

2) From the Bodelian Library, Oxford; British Association of Sciences Declaration **On the Ultimate Harmony of Scripture and Natural Science**

3) Prof Albert Einstein : **"God does not play dice"** attributing his Scientific understanding of the Space-Time Continuum to 19 visions and dreams from God

4) God's Language is digital: Yes or No and not statistical percentages of an answer

5) Flavius Josephus AD 37-94 Jewish secular historian Antiquities XVIII iii,3 confirms the historical reality of Jesus Christ, His Death and **His Resurrection**

6) Daniel 9:26 Through the Prophet to World Ruling Nation 589 BC ArchAngel Gabriel Dates the Cutting Off of the LORD's Messiah (not for himself) to the exact date of the vicarious Crucifixion of Jesus the Christ

7) William D Edwards, MD et al from The Mayo Clinic in The Journal of the American Medical Association March 21, 1986, Vol 256: 1455-1463 report "On the Physical Death of Jesus Christ" confirm the scientific reality of the death of Jesus the Christ.
8) Dr Luke Physician-Apostle-Historian describes the Scientific Reality of the Exousia Authority and Dunamis Power inherent in **the Resurrection of the Christ** and His Name "through faith in His Name" in the Gospel of St Luke and in the Acts of the Holy Spirit-the Direct Giver of Life and Glory- in the book known as the Judeo-Christian Bible.
   Described by Sir Ramsay, W.M. in his book "The Bearing of Recent Discovery on the Trustworthiness of the New Testament" Grand Rapids, Baker Book House, 1953 (Archaeologist per excellence) as "first rate historian " in his scientific accuracy
9) Apostle Rabbi Paul describes the **Profound Force of the Resurrection** with a **New Creation** and a Gracious Restoration of God's Time flow and the Protocol and necessity of Translation into God's New Direction and attendant negative consequences of staying in the old time flow (which is abolished and continually being replaced)
   Healing Faith and Virtue Force flows through a **Trusting Therapeutic Relationship knowledge** of GOD who alone can kill and make alive **Deut 32:39** (perform **Resurrection Healings); God, The Father, has commanded all to worship God the Messiah and God the Holy Spirit, as they are Divine Beings with God's Name in them. The Holy Spirit: God the Spirit is released to perform Healings by the Messiah; and is the Only Agent of True Holy Transformation and has provided abundant and fool-proof criteria for His identification which He demands be done**

10) Modern Day Resurrection on Man Raised from the Dead with Evangelist Reinhardt Bonnke (Christ for all Nations Ministry Video Tape) Onitsha, Nigeria December 2nd 2000 service: documented and comfirmed by three doctors: 4days dead Shock-Trauma and formalin embalmed raised back to life on way to burial

11) Dr Randolph Byrd Study: Positive therapeutic Effects of Intercessory Prayer in a coronary care unit population South Medical Journal 1988, 81: 826-9

12) Sicher F et al. A randomized double-blind study of the effect of distant healing in a population with advanced AIDS. Report of a small scale study West J Med 1998: 169: 356-63

13) Uva, J.L.(1991) Alcoholics Anonymous: Medical Recovery through a higher power. Journal of the American Medical Association 266, 3064-3067

14) Voohees, C.C., Stillman, F.A., Swank, R. T., Heagerty, P. J., Levine, D. M., & Becker, D. M.(1996): Heart, body, soul: Impact of church-based smoking cessation interventions on readiness to quit. Preventive Medicine, 25, 277-285

15) Ellis,A & Schonfeld, E (1990) Divine Intervention and the treatment of chemical dependency. Journal of Substance Abuse, 2: 459-468

16) Chappel, J. N. (1990) Spirituality is not necessarily religion: A commentary on "Divine Intervention and the Treatment of Chemical Dependency." Journal of Substance Abuse, 2: 481-483

17) Booth, J and Martin, J.E. "Spiritual and Religious Factors in Substance Use, Dependence, and Recovery" pages 175-200; Handbook of Religion and Mental Health edited by Harold G Koenig 1998 Academic Press

18) Blazer, D.G. Religion and Academia in Mental Health pages 380-390; Handbook of Religion and Mental Health edited by Harold G Koenig 1998 Academic Press

19) McCullough, M.E. and Larson, D.B "Future Directions in Research"
'In addition, research on the differential validity of psychological assessment tools for various religious groups, especially culturally distinct groups that might respond differently to the content of standardized measures of well-being and psychopathology, is needed to ensure that such tests are providing valid assessments for members of such groups (Hall et al., 1994; Larson, Lu & Swyers, 1996). The work of Richards and Davison (1992) illustrates the need for such psychometric research. They found that Rest's (1979) Defining Issues Test, an instrument for assessing Kohlbergian moral development had a built-in bias against subjects from nonconservative religious groups (e.g. Latter-day Saints), who responded to some of the items differently than did subjects from nonconservative religious groups.

Given Richards and Davidson's (1992) results, it is not unreasonable to **expect that other psychometric instruments are also plagued with differential validity problems** for conservative religious groups (Gartner et al., 1991). Since a scientifically based approach to mental health treatment requires **THE ACCURATE ASSESSMENT OF PATIENTS' WELL-BEING AND SYMPTOMOLOGY**, the need for systematic examination of the differential validity of psychology tests for religious groups could be a productive area of inquiry for research on religion and mental health." page 100 Handbook of Religion and Mental Health edited by Harold G Koenig 1998 Academic Press

20) Handbook of Religion and Mental Health edited by Harold G Koenig 1998 Academic Press

21) Richards, P.W. & Davison, J. L. (1992) Religious bias in moral development research: A psychometric

investigation. Journal for the Scientific Study of Religion, 31: 467-485

22) The Report from the American College of Physicians: Ethics in Practice: Managed Care and the Changing Health Environment (Record Extract 205-215) also confirm Healthcare and Ethical Medical Practice must be Patient Centered and Patient Driven

23) US Congressional Investigative Hearings May 18th and June 7th, 2004.
Testimony of Secretary of Health Mr Nelson Sabatini, Maryland Department of Health and Mental Hygiene

24) Rochvarg, Arnold, Maryland Administrative Law, at 154-55 **"Under Md APA an Agency's organizational rules, procedural rules, interpretive rules, and statements of policy all must go through the same procedures as required for legislative rules"**

25) M. Redish and L. Marshall, "Adjudicatory Independence and the values of Procedural Due Process" 95 Yale Law Journal 455 (1986)

26) Measures to enhance the independence of the Administrative Law Judge from their Agencies. 5U.S.C.A. Subsection 551-559; 701-706; 3105; 33[illegible], 5372; 7521.

27) Dr Mary-Jo DelVecchio Good et al (2002) The Culture of Medicine and Racial, Ethnic, and Class Disparities in Healthcare. Institute of Medicine Report (E262-292) Charismatic Hero Physicians who are leaders in Social Medicine

28) The American College of Physicians Managed Care Ethics Working Group Statement (E205-215)

29) Jewish Times (www.jewishtimes.com)
Cover Story November 19, 2004:
with collaborative reports from Washington Post and Baltimore Sun and the Maryland Government Manual Reports at
www.mdarchives.state.md.usa/msa/mdmanual)

His Final Verdict: Baltimore Circuit Court Judge Robert I. H. Hammerman (retired Chief Judge) Reports 10-page Suicide letter of Anguish and increasing disabling central blindness and Alzheimer's Disease with cognitive, retention and memory loss

30) Massachusetts General Law Annotated, Chapter 112, Section 7

Section two to six, inclusive, and section eight shall not be held to discriminate against any particular school or system of medicine. [Enacted in 1901] The Massachusetts law has been and continues to be upheld as a health freedom law

31) Texas

Constitution of the State of Texas Article 16, Section 31

The Legislature may pass laws prescribing the qualifications of practitioners of Medicine in this State, and to punish persons for malpractice, but no preference shall ever be given by law to any schools of Medicine [Enacted in 1846]

(Schools of Medicine" has been settled by the Texas Criminal Court of Appeals to mean "system, means, or method employed or schools of thought accepted by practitioner" Ex Parte Halsted, 182 S.W.2d 479, 1944.)

and

Texas Medical Practices Act, TMPA Section 3.06

Construction. (a) Nothing in this act shall be construed so as to discriminate against a school or system of medical practice....[Enacted in 1907]

(This act consolidated multiple state medical boards. Therapeutic distinctions of homeopathy , eclectic and naturopathy were considered to be additions to the basic allopathic "science" required of all licensees)

Texas Administrative Code: 22 TAC 200.1-200.3 [regulation]

Standards for Physicians Practicing Integrative and Complementary Medicine

Section200.1 Purpose. The Purpose of this chapter is to recognise that physicians should be allowed a reasonable and responsible degree of latitude in the kinds of therapies they offer their patients. The Board also recognizes that patients have a right to seek integrative or complementary therapies.

Section 200.2 Definitions. The .ollowing words and terms, when used in this section, shall have the foloowing meanings, unless the context clearly indicates otherwise.

(1) Integrative and Complementary Medicine- Those health care methods of diagnosis, treatment, or interventions that are not acknowledged to be conventional but that may be offered by some licensed physicians in addition to, or as an alternative to, conventional medicine, and that provide a reasonable potential for threapeutic gain in a patient's medical condition and that are not reasonably outweighed by the risk of such methods.

(2) Conventional Medicine- Those health care methods of diagnosis, treatment, or interventions that are offered by most licensed physicians as generally accepted methods of routine practice, based on medical training, experience and review of the peer reviewed scientific literature

Section 200.3 Practice Guidelines for the Provision of Integrative and Conplementary Medicine. A licensed physician shall not be found guilty of unprofessional conduct or be found to have committed professional failure to practice medicine in an accepted manner solely on the basis of employing a health care method of integrative or complementary medicine, unless it can be demonstrated that such method has a safety risk for the patient that is unreasonably greater than the conventional treatment for the patient's medical condition. The Texas State Board of Medical

Examiners will use the following guidelines to determine whether a physician's conduct violates the Medical Practice Act, Subsections 3.08(4), 3.08(4)(E), and 3.08(18) in regard to providing complementary and integrative medical treatment

(1) Prior to offering advice about complementary health care therapies, the physician shall undertake an assessment of the patient. This assessment should include but not be limited to, conventional methods of diagnosis and may include non-conventional methods of diagnosis and shall be documented in the patient's chart. Such assessment shall include the following listed in subparagraph (A)-(e) of this paragraph:

(A) adequate medical records as defined in section 165.1 of this title(relating to Medical Records);

(B) documentation as to whether conventional medical treatment options have been discussed with the patient and referral input, if necessary;

(C) documentation as to whether conventional medical options have tried, and if so, to what effect or a statement as to whether conventional options have been refused by the patient;

(D) if a treatment is offered which is not considered to be conventional, documentation of at least a verbal informed consent for each treatment plan must be included (including documentation that the risks and benefits of the use of the treatment were discussed with the patient or guardian);

(E) documentation as to whether the complementary health care therapy could interfere with any other ongoing conventional treatment.

(2) The physician may offer the patient complementary and integrative treatment pursuant to a documented treatment plan tailored for the individual needs of the patient by which treatment progress or success can be evaluated with stated

objectives such as pain relief and/or improved physical and/or psychosocial function.Such a documented treatment plan shall consider pertinent medical history, previous medical records and physical examination, as well as the need for further testing, consultations, referrals, or the use of other treatment modalities.

(3) The physician may use the treatment subject to documented periodic review of the patient's care by the physician at reasonable intervals in view of the individual circumstances of the patient in regard to progress toward reaching treatment objectives which takes into consideration the treatment prescribed, ordered or administered, as well as any new information about the aetiology of the complaint

(4) Complete and accurate records of the care provided including the elements addressed in paragraph (1)(A)-(E) of this section should be kept.

(5) If the provisions set out in paragraphs (1)-(4) of this section are met, and if all treatment is properly documented, the board will presume such practices are in conformity with the Medical Practice Act, subsection 3.08(4), 3.08(4)(c), and 3.08(18).

[Adopted October 24, 1998]

(Board's intent is discussed in the Preamble to Agency Rules)

22) New York

The New York act, Chapter 558 of 1994, amended one section of the education law and two sections of the public health law:

Education Law, Section 6527(4).

(4) This article [Article 131] shall not be construed to affect or prevent the following:
(e) The physician's use of whatever medical care, conventional or non-conventional, which effectively treats human disease, pain, injury, deformity, or physical condition.

and
Public Health Law, Section 230, Subdivision 1
A state board for professional medical conduct is hereby created.....not fewer than 2 of whom shall be physicians who dedicate a significant portion of their practice to the use of non-conventional medical treatments who may be nominated by New York state medical associations dedicated to the advancement of such treatments....

And

Public Health Law. Section 230, Subdivision 10(a)
Investigation.(ii) If the investigation of cases referred to an investigation committee involves issues of clinical practice, medical experts shall be consulted. Experts may be made available by the state medical society of New York state medical associations dedicated to the advancement of non-conventional medical treatments.
[enacted July 26, 1994]

New York utilizes legislative intent to clarify terms of laws, in this case, effectively treat is clarified to mean "has been shown to be effective but has not yet gained general acceptance in the United States."
(e)
(f)

23) North Carolina
North Carolina General Statute, Section 90-14(a)(6).

Unprofessional conduct.....The Board shall not revoke the license of or deny a license to a person solely because of that person's practice of a therapy that ies experimental, nontraditional, or that departs from acceptable and prevailing medical practices unless, by competent evidence, the Board can establish that the treatment has a safety risk greater than the prevailing treatment or that the treatment is generally not effective.
[Enacted June 29, 1993]

And more recently:

North Carolina General Statute, Section 90-2 Medical Board

(a) In order to properly regulate the practice of medicine and surgery for the benefit and protection of North Carolina, there is established the North Carolina Medical Board. There is established the North Carolina Medical Board to regulate the practice of medicine and surgery for the benefit and protection of the people of North Carolina. The Board shall consist of 12 members
(1) Seven of the members shall be duly licensed physicians elected and nominated to the Governor by the North Carolina Medical Society. (2) Of the remaining five members, all to be appointed by the Governor, one shall be a duly licensed physician who is a doctor of osteopathy or a full-time faculty member of one of the medical schools in North Carolina who utilizes integrative medicine in that person's clinical practice or a member of The Old North State Medical Society....

Section 90-2.1 Integrative medicine defined. For purposes of this Article, the term "integrative medicine" means a diagnostic or therapeutic treatment that may not be considered a conventionally accepted medical treatment and that a licensed

physician in the physician's professional opinion believes may be of potential benefit to the patient, so long as the treatment poses no greater risk of harm to the patient than the comparable conventional treatments

Section 90-14. Subsection 90-14(g) Prior to taking action against any licensee who practices integrative medicine for providing care not in accordance with the standards of practice for the procedures or treatments administered, the Board shall consult with a licensee who practices integrative medicine.

Approved August 1, 2003

23) Georgia
Official Code of Georgia Annotated, Section 43-34-42.1

(a) This section shall be known and may be cited as the "Access to Medical Treatment Act"
(b) Notwithstanding any other section of law, and except as provided in subsection (c) of this Code section, an individual shall have the right to be treated for any life threatening illness, disease or condition by a person licensed to practice medicine under this article with any investigational medical treatment that such individuals desires or the legal representative of such individuals authorizes if such person licensed to practice medicne under this article has personally examined such individual and agrees to treat such individual.
(c) A person licensed to practice medicine under this article may provide any medical treatments to an individual described in subsection (b) of this Code section if:
(1) There is no reasonable basis to conclude that the treatment itself, when used as directed, poses an

unreasonable and significant risk of danger to such individual; and

(2) The person licensed to practice medicine under this article has provided the patient with a written statement and an oral explanation, which the patient has acknowledged with the patient's signature or the signature of the patient's legal representative, that discloses the facts regarding the nature of the treatment, specifically including that the treatment offered is experimental, not approved by the FDA for such an indication, and available alternatives, as well as the material risks generally recognised by reasonably prudent physicians of such treatment's side effects.

(d) The treatment of patients in compliance with this Code section by a person licensed to practice medicine under this article shall not by itself constitute unprofessional practice or conduct.

[Enacted April 22, 1997]

(Legislative intent, in bill introduction, explains that purpose of the bill is to "provide that individuals have the right to be provided with any medical treatment desired or authorized under certain conditions....")

23) Florida

[The Florida law applies to all health care professions.]

Florida Statutes, 456.41 Complementary or alternative health care treatments.-

(1) LEGISLATIVE INTENT.- It is the intent of the Legislature that citizens be able to make informed choices for any type of health care they deem to be an effective option for treating human disease, pain ,injury, deformity, or other physical or mental condition. It is the intent of the Legislature that citizens be able to choose from all health care options, including the prevailing or conventional

treatment methods as well as other treatments designed to complement or substitute for the prevailing or conventional treatment methods. It is the intent of the Legislature that health care practitioners be able to offer complementary or3 alternative health care treatments with the same requirements, provisions, and liabilities as those associated with the prevailing or conventional treatment methods.

(2) DEFINITIONS._ As used in this section, the term:

(a) "Complementary or alternative health care8 treatment" means any treatment that is designed to provide patients with an effective option to the prevailing or conventional treatment methods associated with the services provided by a health care practitioner. Such a treatment may be provided in addition to or in place of other treatment options.

(b) "Health care practitioner" means any health care practitioner as defined in s. 456.001(4).

(3) COMMUNICATION OF TREATMENT ALTERNATIVES._ A health care practitioner who offers to provide a patient with a complementary or alternative health care treatment must inform the patient of the nature of th treatment and must explain the benefits and risks associated with the treatment to the extent necessary for the patient to make an informed and prudent decision regarding such treatment option. In compliance with this subsection:

(a) The health care practitioner must inform the patient of the practitioner's education, experience and credentials in relation to the complementary or alternative health care treatment option

(b) The health care practitioner may, in his or her discretion, communicate the information orally or in written form directly to the patient or to the patient's legal representative.

(c) The health care practitioner may, in his or discretion and without restriction, recommend any mode of treatment that is, in his or her judgment, in the best interests of the patient, including complementary or alternative health care treatments, in accordance with the provisions of his or her license.

(4) RECORDS._ Every health care practitioner providing a patient with a complementary or alternative health care treatment must indicate in the patient's care record the method by which the requirements of subsection (3) were met.

(5) EFFECT._ This section does not modify or change the scope of practice of any licensees of the department, nor does it alter in any way the provisions of the individual practice acts for those licensees, which require licensees to practice within their respective standards of care and which prohibit fraud and exploitation of patients.

Florida Statutes section 381.026: Patient's Bill of Rights and Responsibilities._

(4) RIGHTS OF PATIENTS._Each health care facility or provider shall observe the following standards:

(d) Access to health care._

1. A patient has the right to impartial access to medical treatment or accomodations, regardless of race, national origin, religion, physical handicap, or source of payment.
2. A patient has the right to treatment for any emergency medical condition that will deteriorate from failure to provide such treatment.
3. A patient has the right to access any mode of treatment that is, in his or her own judgment and the judgment of his or her health care practitioner, is in the best interests of the patient, including complementary or alternative health care

treatments, in accordance with the provisions of s.456.41

[Enacted on May 8, 2001]

(24) Alaska

Alaska Statute, Section 08.64.326(a)(8)(A)

Professional Incompetence, gross negligence, or repeated negligent conduct:

the board may not base a finding of professional incompetence solely on the basis that a licensee's practice is unconventional or experimental in the absence of demonstrable physical harm to a patient.

[Enacted June 14, 1990]

Ohio

Section 4731.227 of the Ohio Revised Code:

AN INDIVIDUAL AUTHORIZED TO PRACTICE MEDICINE AND SURGERY OR OSTEOPATHIC MEDICINE AND SURGERY MAY USE ALTERNATIVE MEDICAL TREATMENTS IF THE PHYSICIAN PROVIDES THE NECESSARY INFORMATION IN ORDER TO OBTAIN INFORMED CONSENT FROM THE PATIENT AND THE TREATMENT MEETS THE STANDARDS ENFORCED BY THE STATE MEDICAL BOARD PURSUANT TO SECTION 4731.22 OF THE REVISED CODE AND ANY RULES ADOPTED BY THE BOARD

AS USED IN THIS SECTION, ALTERNATIVE MEDICAL TREATMENT MEANS CARE THAT IS COMPLEMENTARY TO OR DIFFERS FROM CONVENTIONAL MEDICAL CARE BUT IS REASONABLE WHEN THE BENEFITS AND RISKS OF THE ALTERNATIVE MEDICAL TREATMENT AND THE CONVENTIONAL CARE ARE COMPARED.

[ENACTED JULY 10, 2000]

PETITION FOR CERTIORARI

Petitioner, Clement Momah, MD respectfully requests that a Writ of Certiorari issue to review the judgment of the Maryland Court of Appeals on the merits of this case

OPINIONS BELOW

1)Upon presentation for Petition for Writ of Certiorari inclusive of the NIH Report on the Use of Complementary and Alternative Medicine by the American Public in the United States, through the Institute of Medicine, the Maryland Court of Appeals on December 9th, 2005 held that there has not been a showing of Desire or Public Interest to review the Practice of Healing Prayers in the Practice of Medicine

2) The Maryland Court of Special Appeals in unreported opinion erred in ruling on Motion to dismiss on grounds of Maryland Rule 8-603(c)(4) on false premise that Chief Judge of Court had erred in **Granting 30day-Motion for Reconsideration** (and to Re-Open Appeal) and Recall Mandate, as Maryland Rule 8-603(c)(4) did not permit repeated 10day Motions for Reconsideration (similar to Maryland Rule 2-534 for 10day Motions to alter or amend judgment in the Circuit court)

3) Petition for Judicial Review to Circuit Court Baltimore. Judge R Hammerman held Opinion of State Board of Physicians sustained by substantial evidence.

Denied Petitioner presentation of Judicial Errors of Law and Erroneous Exclusion of mandatory Rebuttal and Impeachment Witnesses and documents

4) The State Board of Physicians permanently suspended and revoked Petitioner's Medical License for Incorporation of

Healing Prayers as having engaged in immoral or unprofessional conduct in the practice of Medicine, was professionally, physically or mentally incompetent and wilfully made a false representation when seeking or making application for licensure or any other application related to the practice of medicine

JURISDICTION

The Maryland Court of Appeals' final judgment was entered on December 9, 2005. This Court has jurisdiction to review the judgment under 28U.S.C. 1257

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

1) This case involves the interpretation of the constitutional Supremacy of the Federal Government of the United States over State Action and Procedures in the interpretation of the No Prohibition of the Free Exercise of Religion Clause of the 1st Amendment of the US Constitution in the Practice of Healing Prayers and the Faith-Initiative in the Practice of Medicine

2) This case also involves the interpretation of the Fourth Amendment the Right to be secure in our person and that no searches or Seizure Prior to on Judicial Warrant on Oath or Affirmation and at what time of a proposed Search and Seizure the Fourth Amendment is applied and the needful requirement for separation of Judicial Officer Decision from the Prosecutorial legal arm of Executive Government
3) This case also involves the interpretation of the legislatively enacted Federal Rules of Additional Relevant Evidence 402 (401 and 702)

In Daubert the Supreme Court confirmed "we interpret the legislatively enacted Federal Rules of Evidence as we would any other Statute. (Beech Aircraft Corp. v Rainey, 488 US 153, 163 (1988)

Fed Rule of Evidence 402: provides the baseline:

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules [509 US 579, 7]

The Federal Rules of Evidence, not Frye, provide the standard for admitting expert scientific testimony in a federal trial.

Thus, Frye's general acceptance test was superseded b the Rules' adoption. The Court noted that " the Rules occupy the field....the common law nevertheless could serve as an aid to their application

The State Board may not determine Patient's Choice but it may determine that the Treatment modality chosen is Safe, is treatment effective and has been so proven by recognised Scientific Methods.

The State Board's absence of Neutrality in apportionment of "classes of businesses" principle exceeds its governmental people derived authority in compelling choice of safe and Effective treatment methods that each patient unit chooses to make. An equal vote effect of patient choice of Physician and Healing Methods according to Informed patient consent practice is required by the Equal Protection Clause of the Fourteenth Amendment of the US Constitution.

STATEMENT

A. The Parties involved

B.

THE PARTIES

are identified on page ii

JUDICIAL PROCEEDINGS

1) January 27th 1999 In reply to inquiry Petitioner received letter from State Board of Physicians (E003 Record Extract) confirming Healing Prayers as Complementary Medicine
2) With incorporation of Healing Prayers and the occurrence of notable miracles and healings, but with no loss of clinical standards in Patient Outcomes, Petitioner's Medical Practice at index Hospital: Maryland General Hospital, was

scrutinized and 2 false answers alleged on Application Forms, unprofessional conduct, rescinded allegation of loss of clinical standards, and inappropriate use of prayers in the workplace.

3) A suspension of clinical priviledges during Hospital investigation, triggers State Board investigation, with first contact being a demand for Compelled Psychiatric and Psychological Testing without State Authentication of Allegations and against Petitioner's request for Christian Psychiatrist and Psychologist on religious grounds, if necessary
4) Board Psychiatrist initially reported a normal examination to Petitioner and witness and requests Psychology Testing according to Board instructions. Psychology Testing extremely adversarial with Opinion of Narcissistic Personality Trait expressed subsequently. Psychiatrist initial reaction was Psychology report satisfactory enough to continue Medical Practice as Test results not always specific.
5) State Board disseminates Psychiatrist and Psychologist Report findings to all Hospitals and Nursing Homes where Petitioner had Clinical Privileges.
6) Family Practice medical Administrator of Irvington Knolls Nursing Home reacts with allegation of loss of standard in care of "low blood sugar" of a diabetic even though this is in the area of Appellant's Internal Medicine and Endocrinology SubSpecialization
7) Board Psychiatrist then reverses his opinion of Petitioner's safety at Medical Practice without Authentication of Allegation.
8) The Board summarily suspends Petitioner's Medical License on December 20th 2000 holding the Family Practice Physician's clinical opinion more credible on the "preponderance of evidence standard" than Petitioner's Internal Medicine and Endocrinology subspecialization opinion, in violation of State Regulation COMAR 10.32.02.02(14) that credibility is weighed on "the area of medical specialty most normally concerned with the medical

act in question, and the practitioner of which area most likely familiar with the risks and benefit of that act"

9) Administrative Law Judge Hearing October 16-18th, 2001 based his findings of fact only on Board's allegations and recommendations, from Board Psychiatrist expressed belief that Petitioner's nonacceptance of his now alleged diagnosis of lifelong Narcissistic Personality Trait, indicated his diagnosis not amenable to clinical therapy, proposed Suspension and Revocation of Medical License of Appellant on January 16th, 2002 following, on motion from the Board, Abuse of Discretion and Judicial Error of Exclusion of exonerating Appellant's Rebuttal Witnesses and Documents contrary to mandatory Regulation requiring Rebuttal Witnesses and Documents: COMAR 10.32.02.03(E)(8). This included Petitioner's evidentiary presentation and expert documents of the published standards for evaluation of Personality and diagnosis of Narcissistic Personality Trait, particularly in the Christian culture which Board Psychologist did not attain to support his diagnosis. These standards were also confirmed by Christian Psychologist evaluation and report and Christian Psychiatrist Evaluation and Reports which document Petitioner's normal Personality.

10) The Board's Exception Hearing April 22nd 2002 accepts (ALJ) Proposal and the Board Counsel again directs Board's refusal of Appellant's Rebuttal Witnesses and Documents. Board decision to permanently Suspend and Revoke Petitioner's Medical License on July 25th, 2002

11) Petitioner's Appeal for Judicial Review came before Judge Robert Hammerman on March 11th, 2003, Judge Hammerman denying Petitioner presentation of legally incorrect decision of Judicial erroneous exclusion of Rebuttal and Impeachment Evidence not subject to exclusion" held with the Board based on Substantial Evidence.

12) Petitioner appealed to the Court of Special Appeals on April 10th, 2003. On its own initative the Court of Special Appeals dismissed on September 25th, 2003 for non-payment of filing fees whilst Petitioner was detained by the

State for an suspended driving privilcdge from outstanding seat belt fine.

13) Petitioner's **30day Motion to Reconsider** September 25th 2003 decision was denied December 31st 2003 and Mandate issued January 12th 2004

14) Petitioner's **30day Motion to Re-Open Appeal** with full payment of all fees and accompanied by Additional Evidence to Court to confirm Normal Personality and Mental Status Examination by Christian Psychologist and Psychiatrists. Granted May 5th 2004 Order, recalling Mandate

15) Public Evidence now available of Professional Misconduct and Fabrication of Lab Results amongst Medical Administrators at index hospital Maryland General Hospital, being compelled to resign and confirmed not credible in US Congressional Investigative Hearings

16) Board's Motion to dismiss challenging the Authority of the Court of Special Appeals to recall its Mandate. Denied without prejudice, with permission to raise motion to dismiss in its Brief

17) Final Briefs in February 15th 2005.

18) Court of Special Appeals granted Motion to Dismiss June 29th 2005 by unreported opinion citing Rule 8-603(c)(4) of No Further Reconsideration of the dismissal pursuant to Rule 8-605 in the Court of Special Appeals in reference to December 31st 2003 Court decision

19) Motion for Reconsideration of its decision correctly highlighting reference of Rule 8-603(c)(4) to **10-day Motions to Re-Cosider** and not pertinent to **30-day Motions of Reconsideration**; denied by issuance of mandate September 9th, 2005.

20) Petitioner for Writ of Certiorari to the Maryland Court of Appeals denied December 9th, 2005 as not showing of Desire or Public Interest to review Prayer Healings in the Practice of Medicine

21) Petition for Writ of Certiorari to the Supreme Court of the United States filed January 11th, 2006; refiled March 6th 2006.

10)

REASONS FOR GRANTING THE WRIT

I The Maryland Court of Appeals decision conflicts with the showing of desire and public interest of the people of the United States in the Use of Prayer Healings and Spiritual Healings in the Physician Practice of Medicine by the National Institute of Health through the National Center for Complementary and Alternative Medicine and the sponsorship of the US Congress; the State Court's decision unconstitutionally and wrongfully seeks to preempt the decisions and actions of the Federal Government in the decisions and Actions of the United States Congress which has sponsored and authorized the study and report published January 12th, 2005 on Complementary and Alternative Medicine in the United States and the position held by the jurisprudence of this Court and the Office of Faith based Initiative of the White House. Petitioner respectfully requests that this Court not permit a precedent of Preemption of Federal Authority by State Authority in the specific area of Health, this being a matter of great importance to all the People of the United States and to the Union of the United States. Moreover the Maryland Court decision conflicts with the decision established by the Texas Criminal Court of Appeals and Texas Statute of no discrimination in the schools of Medicine.

The State may not invade the Physician-Patient Relationship and it may not invade the Intimacy of the Relationship between God and Patient in the course of invoking God for Mercy and Grace. These Principles are consistently articulated by the Supreme Court also in Grisworld v Connecticut 381 US 479, 85 S Ct 1678, 14 L Ed 2d 510 (1965) in the novel scientific use of Contraception in Connecticut, in which the Supreme Court majority opinion confirmed " standing to raise constitutional rights of patients in a professional relationship with a Physician and physician-patient relationship lying within a zone of

privacy, created by several fundamental constitutional guarantees; including concerning a (state) law which in forbidding the use of (contraceptives) rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that (physician-patient) relationship. "Such law cannot stand in light of the now familiar principle applied by the Court that a governmental purpose to control or prevent activities constitutionally subject to state regulation may not be achieved by means which sweep unnecessarily broadly and thereby invade the area of protected freedom" quoting NAACP v. Alabama. We deal with a right of privacy older than the Bill of Rights"

An area of protected freedom does concern the Free Election Choice, voting choice for a Physician, and voting choice for Pleadings Prayers to God Healings, which is subject to judicial remedy under the 15th Amendment of the US Constitution. Praying with patients is a lawful activity under the Constitutions of the US and Maryland Constitutions, and the State's Power does not extend to its Prohibition.

Every citizen of Maryland and of other states has the right to be informed adequately of "medical breakthroughs" (Maryland Bill of Rights of Patients) that are safe, treatment effective. State Board limitation of apportionment on the basis of secular humanisn perspectives limiting the election choice of each citizen for the treatment modality that is effective and safe, is unduely broad, when not provided for each "class of businesses" Any limitation of the free choice of a patient and the failure of the State to accommodate this infringes the Equal Protection Clause of the XIVth Amendment of the US Constitution. " One Patient's choice may not be held 10times more worth than another".
It is noteworthy on this account, that Johns Hopkins University, Baltimore, MD now has a Center for Cancer Complementary Medicine and the University of Maryland School of Medicine, Baltimore, MD has a Center for Alternative Medicine Research in Arthritis

Culture, Racial and Economic factors which have always affected and are ingrained in the Practice of Medicine do influence the choices of patients, especially black patients and the underpriviledged, many of whom desire Physicians who will pray with them for healing (Institute Of Medicine IOM Report: (2001) UnEqual Treatment: Confronting Racial and Ethnic Disparities in Healthcare Brian Smedley et al and MaryJo Del VecchioGood et al: The Culture of Medicine and Racial Ethnic and Class Disparities in Healthcare Record Extract E259-261; E262-294). The IOM, part of the National Academies, is a nonprofit nongovernmental institution created by Congress as an advisory body to the nation on scientific and technological matters. The Report from the American College of Physicians: Ethics in Practice: Managed Care and the Changing Health Environment (Record Extract 205-215) also confirm Healthcare and Ethical Medical Practice must be Patient centered and Patient Driven. Thus hinderance of the patient choices is subject to judicial remedy under the XVth Amendment

The Maryland Court decision will hinder not only the decision to use Prayer but also much needed Research in a frontier of Medicine now described as mainstream; and derivation of clinical practice as it evolves from continued clinical research.

At the request of the National Institutes of Health (NIH) and the Agency for Healthcare Research and Quality, NCCAM and 16 other Federal cosponsors the IOM produced the report titled Complementary and Alternative Medicine in the United States, which assesses what is known about American's reliance on those therapies and also assists the NIH in developing research methods and setting priorities for evaluating products and approaches within CAM. Barnes and colleagues (2004) performed the most recent national analysis of CAM use using data from the 2003 National Health Interview Survey (NHIS).(Barnes PM, Powell-Griner E, McFann K, Nahin RL Complementary and Alternative Medicine use among adults: United States, 2002 *CDC Advance Data Report #343*, 2004

Accessed at nccam.nih.gov/news/report.pdf) The survey included 31,044 respondents, computer assisted personal interviews drawn from a nationally representative sample. As with previous surveys, clearly defining CAM had a large impact on the prevalence results. When "prayer for one's own health" was included in the definition, Barnes et al found that 75percent of adults had ever used CAM and that 62percent of adults had used some form of CAM therapy within the last 12months. 43 percent Prayers for one's own health. Prayers by others for one's own health 24.4 percent. Excluding prayer from the definition decreased the rate of CAM use to 36percent. (Complementary and Alternative Medicine in the United States Institute of Medicine Report 2005 page 37 and 40)

In November 2000 NIH hosted a workshop, The Science of the Placebo: Toward an interdisciplinary Research Agenda, thereby helping to place placebo in the category of a "real" effect. Professor Herbert Benson and R Friedman report Harnessing the power of the placebo effect and renaming it "remembered wellness" Annual Review of Medicine 1996; 47: 193-9. The August 2001 issue of Science published on the basic science mechanisms of placebo (dela Fuente-Fernandez et al., 2001). These two events triggered expanded interest among the Neuroscience community in the study of the impact of nonspecific effects (e.g. expectation, context, belief) on clinical outcomes. In 2002 Science Express published on Positron Emission Spectrometry, imaging of the placebo response signaling continued interest in the application of modern technology to the mechanistic study of placebo-related phenomena. Ezzo et al (2001) found that only 40 percent of conventional medicine that had been tested by Random Controlled Trials had positive or possibly positive effects (quoted page 230 CAM Report).
The Institute of Medicine (IOM) report Health Professions Education: A Bridge to Quality (IOM, 2003) proposed the following vision for health professional education: "All health professionals should be educated to deliver patient-centered care as members of an interdisciplinary team, emphasizing

evidence-based practice, quality improvement approaches and informatics" (quoted page 228 CAM Report)

Legislation creating NCCAM (Public Law 105-277) mandates: "the conduct and support of basic and applied research (intramural and extramural), research training, and to disseminate health information and other programs with respect to identifying, investigating, and validating CAM treatments, diagnostic and prevention modalities, disciplines and systems"

The National Academy of Sciences is a private, nonprofit, self-perpetuating society of distinguished scholars engaged in scientific and engineering research, dedicated to the furtherance of science and technology and to their use for the general welfare. Upon the authority of the charter granted to it by the Congress in 1863, the Academy has a mandate that requires it to advise the federal government on scientific and technical matters.

The Institute of Medicine was established in 1970 by the National Academy of Sciences to secure the services of eminent members of appropriate professions in the examination of policy matters pertaining to the health of the public. The Institute acts under the responsibility given to the National Academy of Sciences by its congressional charter to be an adviser to the federal government and, upon its own initiative, to identify issues of medical care, research, and education. (www.national-academies.org)
In 2002 the US Department of Veteran Affairs agreed to provide reimbursement for chiropractic care (page 23 IOM CAM Report) In 1999 large scale pharmaceutical companies entered the CAM market with herbal product lines and other dietary supplements page 21

Page 21 IOM CAM Report further reports In 1998 the use of CAM was widely discussed and hotly debated: with editorials in the New England Journal of Medicine; an editorial in the Journal of the American Medical Association contended that: "There is no Alternative Medicine. There is only scientifically

proven, evidence -based medicine supported by solid data or unproven medicine, for which scientific evidence is lacking" (Fontanarosa and Lundberg, 1998) The American Medical Association published a total of 80 articles in its theme journals and the results of 18 randomised trials: editorials, descriptive articles, systemic reviews, and results of randomised controlled trials

In response to the growing recognition of CAM therapies by conventional medicine practitioners for their patients' care, the Federation of State Medical Boards began work on CAM guidelines for physicians in 2000. The initiative was focussed on "encouraging the medical community to adopt consistent standards, ensuring the public health and safety by facilitating the proper and effective use of both conventional and CAM treatments, while educating physicians on the adequate safeguards needed to assure these services are provided within the bounds of acceptable professional practice" FSMB, 2002) The federation's House of Delegates approved the guidelines in April 2002 (page 22 and pages 298-306 CAM Report) to which the Maryland State Board of Physicians sent delegates and participated and has incentive and responsibility to implement.

NCCAM funding 121.1 million dollars is third only behind the National Institute of Health (NIH) 334.9 million and the National Cancer Institute (NCI) 132.4 million page 27 CAM Report also indicative of public interest driven US Congress expenditure.

Public Interest is further confirmed by the establishment of the White House Commission on Complementary and Alternative Medicine (WHCCAMP) in March 2000 by Democratic President Clinton and by the Faith-based initiative of Republican President GW Bush. The purpose of the WHCCAMP was to "study and report on public policy issues in the rapidly expanding field of complementary and alternative medicine" Furthermore the commission was asked to report on "legislative and administrative recommendations to assure that

public policy maximizes the benefit to Americans of appropriate use of complementary and alternative medicine" (Executive Order 13147, 2000) The commission's report provided recommendations about research on CAM, education and training in CAM, CAM information dissemination, delivery of CAM services, the potential role of CAM in wellness and health promotion and the need for coordination of CAM related efforts (WHCCAMP 2002 Final Report Washington, DC: WHCCAMP)

Walter Larimore (American Family Physician, January 1 2001 - ----E160) reports that 75 percent of patients believe their patients should address spiritual issues as part of medical care. More than 40 percent actively want discussion of spiritual issues to take place quoting Maugans et al Religion and Family Medicine: a survey of physicians and patients J Fam Pract 1001; 31: 210-3
Publications in Newsweek, Time and USA Weekend Public Television Programs continue to confirm Public interests Believing in God and good Health outcomes.

Professor William Osler of Johns Hopkins Hospital reports that faith has always been part of the Practice of Medicine in his 1910 British Medical Journal article: "The Faith that Heals"

Half of America's Medical Schools now provide training on faith and spiritual issues with patients and Spiritual care has become part of Psychiatric Residency training programs in the United States and Family Practice Residency programs and other Primary Care residency programs (Accreditation Council for Graduate Residency Education, Graduate Residency Requirements). CAM Report page 226 describes the growth in the integration of CAM and conventional Medicine in health care institutions and individual practices as well as health professional education programs.

In 1995 the Alternative Medicine Interest Group of the Society of Teachers of Family Medicne surveyed US Medical Schools departments of Family Medicine and all family medicine

residency programs to determine the extent to which CAM was being taught in medical schools. The results showed that in 1995 CAM was taught in 34 percent of US Medical Schools and 28percent of family practice residency programs. The number of medical schools offering courses on CAM-related topics rose from 45 of 125 schools in the 1996-1997 academic year to 75 schools in 1998 (Wetzel et al, 2003) and 98 medical schools in the 2002-2003 academic year (Barzansky and Etzel, 2003) . Tracing lessons of the experiences that Practitioners of New Medical fields have undergone: Geriatrics and HIV/AIDS the importance of using multiple strategies to create an environment in which new science can flourish. Page 242 page 249 **The CAM Committee recommends Health care professional licensing Boards and accrediting and certifying agencies (for both CAM and conventional medicine) should set competency standards in the appropriate use of both conventional medicine and CAM therapies, consistent with practitioners' scope of practice and standards of referral across health professions.** (Page 249 IOM CAM Report). This is evidently consistent with the legal requirement of "Classes of Businesses" concept Principle of the APA both federal and state already presented to the Maryland Court of Appeals.

II The Supreme Court's grant of Writ of Certiorari will correct the State Board's violation of the Fourth Amendment and ensure the Abuse of State Police Powers in arbitrarily closing down Businesses for "Mobilized Passion" purposes be curtailed by the decision of a Tutored Neutral Judicial Officer not directly involved in "hot pursuit" of wrong doing. The misconduct of medical administrators at Maryland General Hospital and concerted State Action confirms that the State Attorneys Office or Attorney General's Office can not be trusted to perform neutrally at a role for which there is no constitutional support. The Supreme Court recognized in United States v.

Rabinowitz, 339 U.S. 56, 69 (1950) that search and seizure standards must be applied to administrative officials to prevent capricious and malicious administrative behaviour. Justice Marshall delivering the majority Opinion in Donovan v Dewey_US_101S.Ct 2534 (1981) confirmed that "Our prior cases have established the Fourth Amendment's prohibition against unreasonable searches applies to administrative inspections of private commercial property." The well-established Principles of the 4th Amendment establishing requirements for the issuance of warrants whilst preventing fictitiousness since Mapp v Ohio extended the exclusionary rule to the States, demand that the Government must demonstrate the informant's Reliability to the Magistrate or Judge when obtaining a search warrant(Spinelli v United States 393 US 410: 1969; and United States v Harris 403 US 573: 1971). Authentication of information is necessary.
The State Board is thus required to authenticate allegations and information against Physicians by a Preliminary Investigation under State Statute requirement. Thus the failure by the State Government to authenticate adverse allegations by Preliminary Investigation before initiating "Disciplinary Action" or "Searches" by Psychiatric and Psychological Ad Hoc Examinations and decisions is a violation of the Fourth Amendment Guarantee against seizures and searches enforceable by the "Due Process Clause" of the Fourteenth Amendment. The Terry Supreme Court (Terry v. Ohio 392 U.S. 1, 88 S Ct. 1868, 20 L.Ed. 2d 889 (1968) established that the Fourth Amendment becomes relevant at the point of seizure of the person… "The Fourth Amendment governs seizures of the person which do not eventuate in a trip to the station and prosecution for crime. The Court recognised that whether a police officer accosts an individual and restrains his freedom to walk away, he has "seized" that person. It is a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment,

and is not to be undertaken lightly..." The Terry Supreme Court majority concluding that (to protect ...themselves and others in situations where they may lack probable cause for an arrest); in the course of an Investigation, the (governmental) police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that criminal activity may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behavior, he identifies himself as a policeman and makes reasonable inquires, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitled for the protection of himself and others to conduct a carefully limited search of the outer clothing of such a person in an attempt to discover weapons which might be used to assault him.

Such a search was admitted by the Terry Court as a reasonable search under the Fourth Amendment whilst it also defined the central inquiry under the Fourth Amendment as "the reasonableness in all the circumstances of the particular government invasion of a citizen's personal security"
Certain fundamental principles have characterized the Fourth Amendment jurisprudence, the most basic principle being by a unanimous Court in GoBart Co v United States 282 U.S. 344 (1931): "There is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances..." quoted by Justice Marshall dissenting in Terry v Ohio. Nonetheless, "the validity of the search of a person incident to a lawful arrest has been regarded as settled for the purposes of Protection of Police Officer and Others'"

This reasonableness standard was violated by the State Board's lack of Investigation or Affirmation before it embarked on Compelled Psychiatric and Psychological

Testings of Petitioner and the subsequent dissemination of the results to trigger further untrue allegations. Hence the Government Arrest of Petitioner in his Healing Practice and Revocation of Medical License was unlawful, absent Fourth Amendment safeguards and Restraint of a Judicial Officer's objective predetermination of Probable Cause; The Unit therefore exceeded its constitutional and statutory authority and its decisions and actions thus subject to complete reversal. Petitioner accordly petitions for an invalidation of both Board "Expert" Psychiatrist and Psychologist Reports, notwithstanding the unlawful methodology employed, and that these be striken from the Records and further Publication.

In Katz v United States 389 U.S. 347, 88 S Ct 507, 19 L Ed. 2d 576 (1967) the Supreme Court holding that the Government's activities in electronically listening to and recording the petitioner's words, violated the privacy upon which he justifiably relied while using the telephone booth and thus constituted a "search and seizure" within the meaning of the Fourth Amendment. The Katz Court, in determining whether "the search and seizure" complied with constitutional standards, **determined retroactive validation of the government's conduct unconstitutional. This we cannot do"**. The court opinion emphasized the persistent position of the Supreme Court that the mandate of the Fourth Amendment requires adherence to judicial processes,....and that searches conducted outside the judicial process, without prior approval by Judge or Magistrate are per se unreasonable under the Fourth Amendment__subject only to a few specifically established and well delineated exceptions. For the Constitution requires that the deliberate, impartial judgment of a judicial officer...be interposed between the citizen and the police with the safeguards provided by an objective predetermination of probable cause from the usual requirement of advance authorization by a

magistrate upon a showing of probable cause. Omission of such advance authorization substitutes instead the far less reliable procedure of an after-the-event justification for the …..search, too likely to be subtly inflenced by the familiar shortcomings of hindsight judgment." And by by-passing a neutral predetermination of **the Scope of a search** leaves individuals secure from Fourth Amendment violations "only in the discretion of the police"…When the government ignores "The Procedure of Antecedent Justification" that is central to the Fourth Amendment,…judgment against Petitioner must be reversed."

The State Board ignored this procedure of Antecedent Justification at several crucial points in this case first in seizure of Petitioner's Practice by Psychiatric and Psychological Examinations compelled by Threats of Immediate Suspension of License against Petitioner's professed Religious Preference of Christian Examination if necessary; second by its retroactive validation of its governmental conduct capricious without governmental Authentication of allegations from medical administrators now proven not credible by the US Congressional Criminal Investigation committee; third by its retroactive validation of its statutorily unlawful Suspension by Dr David Brown's endocrinology opinion critical in hindsight judgment with opinions considered prejudiced and biased by other Endocrinologists. Petitioner justly requests according to the jurisprudence of this court that judgment against Petitioner be reversed.

In the United States v United States District Court 407 U.S. 297, 92 S.Ct. 2125, 32 L Ed. 2d 752 (1972) the Supreme Court emphasizing the limited nature of the question "Whether safeguards other than prior authorization by a magistrate would satisfy the Fourth Amendment in a situation involving national security.." And determining that the question required the essential Fourth Amendment inquiry into the reasonableness of the search and seizure in question, and the way in which that reasonableness derives content and meaning through

reference to the warrant clause…examining and balancing the basic values at stake before it: the duty of government to protect (the domestic security) and the potential danger posed by unreasonable surveillance to individual privacy and free expression__held that "Official surveillance, whether its purpose be criminal investigation or on-going intelligence gathering risks infringement of constitutionally protected privacy of speech….this requires an appropriate prior warrant procedure. Fourth Amendment freedoms cannot be properly guaranteed if domestic surveillance may be conducted solely within the discretion of the executive branch. The Fourth Amendment does not contemplate the executive officers of government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute….but those charged with this investigative, and prosecutorial duty should not be the sole judges of when to utilize constitutionally sensitive means in pursuing their tasks. The historical judgment, which the Fourth Amendment accepts, is that unreviewed executive discretion may yield too readily to pressures to obtain incriminating evidence and overlook potential invasions of privacy and protected speech…The Fourth Amendment contemplates a prior judicial judgment, not the risk that executive discretion may be reasonably exercised. This judicial role accords with our basic constitutional doctrine that individual freedoms will best be preserved through a separation of powers and division of functions among the different branches and levels of Government. The independent check upon executive discretion is not satisfied, as the government argued, by "extremely limited post-surveillance judicial review". Prior Review, by a neutral and detached "magistrate" is the time-tested means of effectuating Fourth Amendment rights. History abundantly documents the tendency of government___however benevolent and benign in its motives___to view with suspicion those who most fervently dispute its polices. Fourth Amendment

Protections become the more necessary when targets of official surveillance may be those suspected of unorthodoxy in their political beliefs..." Official surveillance must be exercised in a manner compatible with the Fourth Amendment. In Arkansas v. Sanders 442 U.S. 753, 99 S. Ct. 2586, 61 L Ed 2d 235 (1979) the Supreme Court confirmed that the mere reasonableness of a search, assessed in the light of the surrounding circumstances is not a substitute for the judicial warrant required under the Fourth Amendment.
Warrantless Searches, the Exceptions to Warrant Requirement, have been established where the Supreme Court had concluded the public interest required some flexibility in the application of the general rule that a valid warrant procedure is a prerequisite for a search. These warrantless searches summarized by Justice Marshall majority opinion in Donovan v Dewey US 101 S Ct 2534 (1981); by Kevin I MacKenzie "Administrative Searches and the Fourth Amendment: An alternative to the Warrant Requirement" Cornell Law Review 64 (1979), pp 864-871; and by Kenneth F Warren: Administrative Law in the American Political System" (1982) have received Supreme Court Approvals when

1) other Administrative Safeguards exist acceptable to Warrant functions to Protect Private Interests in the Prevailing circumstances and Public Interests
   United States v Martinez 428 US 543 (1976)
   Dakota v Opperman 428 US 364 (1976)
2) Closely Regulated licensed Businesses and Industries
   United States v Biswell, 406 US 311 (1972) and
   Colonade Catering Corp v United States 397 US 72 (1970)
3) Persuasively Regulated Businesses and Industries
4) Pervasively Regulated Businesses

The present case is a case of a normal requirement of an Administrative Search Warrant at the point where Fourth Amendment Protection Guarantee is operative by

Investigation for the truth before Disciplinary Examinations.
[(Marshall v Barlow's Inc 436 US 307 (1978)
See v City of Seattle, 387 US 541 (1967)
Camara v Municipal Court, 387 US 523 (1967)]
Such Fourth Amendment Investigation and Judicial Warrant is a Deterrent to the System Errors of Abuse of Administrative Discretion and Abuse of Peer Review now identified by the US Congressional Investigation as a national problem highlighted by the Institute of Medicine 2001 Report of Medical Mistakes of over 100, 000 deaths per year. Conspiracy is easily identified by constitutionally tutored Neutrality and this brings in Healing to the Atmosphere of the Hospital environment, restored in the interests of the People of the State of Maryland with no threats of the Abuse of the Peer Review System againstPhysicians whose focus can then be directed towards Patient Wellness rather than Battles with the medical Administrators and Abuses of Administrative Discretion. An atmosphere of abuse within medical administration is soon reflected in abuses to patients.
Warrantless Administrative Arrests and Inspections are subject to Ex Parte Influences resulting in Individual or Collective Injury as in the present case with the State Board originating from Maryland General hospital.

A mobile Task Force of Judicial Reviewers, constitutionally tutored Neutral, operating at the engagement of the Fourth Amendment, by predetermination of Probable Cause and Scope of Review prior to Investigation and Prosecutors, eliminates Systemic Bias as System Analysis demonstrates even in Endocrine Hormonal Systems. Facilitators and Inhibitors in balance produce Equilibrium. It is an unreasonable demand that an individual Administrator be immune from Ex Parte influences or Pressures as history has shown otherwise. The constitutional objective is the maintenance of lawful conduct by rewarded guarantees

for the 90percent of lawful citizens not the pursuit of identification of all system errors of the unlawful conduct of the 10percent unlawful citizens with unacceptable harm to the 90percent lawful citizens.

State Board of Physician interests do not justify departure from the customary Fourth Amendment requirement of judicial approval prior to initiation of a search or surveillance. Certainly Peer Review constitutes such a seizure as the reviewed physician is not releases to his individual freedom of practice until the peer review is over. The conduct of the State Board and the Office of the Attorney General in this instant case, confirm the lessons of history, and as noted in the US v US District Court Opinion *supra* the inconvenience of an added burden imposed upon the Attorney General Office is justified in a free society to protect constitutional values. It further demonstrates the necessity of separation of powers as historical evidence confirms prosecutors do not function well in the tutored Neutrality required of Judicial Officers

Each Government must heed the injunction that "no person may be deprived of life, liberty or property "without due process of law" the balance-wheel of the whole System - Supreme Court Justice Woodrow Wilson. Separation of Powers is an adjunct to "Due Process". The purpose of judicial review is for correctives against abuse of power. Where the final decision maker is the Case Prosecutor or a member of the team, Justice cannot be guaranteed, and such decision exceeds the constitutional authority of the final decision-maker. Thus the State Board's final decision of suspension and revocation of Petitioner's medical License exceeded the authority of the Board relying as it did on the final pivotal decision of Mr Thomas Keech, Board Counsel from the Attorney General's Office to exclude Rebuttal and Impeachment Witnesses and Documents that the Board Physician members were

about to accept into record; Mr Thomas Keech is also in one of the lead roles of prosecuting on behalf of the State Board. This has been presented to the Maryland Court of Appeals as indicative of the Maryland Attorney General's Office failure of separation of powers and why Prosecutors are not expected to be "tutored neutral". Federal APA (Section 557 of the Administrative Procedure Act, 5 U.S.C. 557 states: Any Commission Officer, employee or agent engaged in the performance of investigative or prosecutorial functions for the Commission (or Agency) in a proceeding as defined in section 201.101

(a) may not, in that proceeding or one that is factually related, participate or advise in the decision, or in Commission Review pursuant to Section 557 of the APA 5U.S.C. 557, except as a witness or counsel in the proceeding

The Supreme Court's grant of certiorari will help clarify this error of the Administrative Procedural Process with the correct roles of a member of the Attorney General's Office being unconstitutionally permitted in a Judicial Role for which the training and expertise, perspective and attitude are not those of a judicial Officer tutored neutral

There is the necessity of a Judicial Officer neutral from Pursuit Passions to make a decision regarding "Probable Cause" under Oath or Affirmation. To deny this right is to deny the Constitution and the Historical Purpose for which the Fourth Amendment was first proposed to stop similar abuses of Police Powers by then Occupying British Custom Officers and Police Power who by arbitrary closure of Colonists Businesses without Probable Cause persuaded the framers of the Constitution of the necessity of this Amendment. Neither does the use of Affirmation Regulation of Probable Cause prevent the Abuses that a Judicial Officer Evaluation prevents. As one who has long experienced the Abuses perpetrated without Judicial Warrant of Probable Cause and by inexperienced or self-willed Investigation Officers would have been completely prevented by the decision of a Judicial Officer tutored neutral,

if necessary in the field; it is evidently clear that, that step in Decision-making must be taken out of the control of the Prosecutory Team with regards to Businesses as argued by Justice Thoroughgood Marshall, notwithstanding this Court's decision in Terry v Ohio.

1) This case also involves the interpretation of the legislatively enacted Federal Rules of Additional Relevant Evidence

In Daubert the Supreme Court confirmed "we interpret the legislatively enacted Federal Rules of Evidence as we would any other Statute. (Beech Aircraft Corp. v Rainey, 488 US 153, 163 (1988)

Fed Rule of Evidence 402: provides the baseline:

All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules [509 US 579, 7]

The Federal Rules of Evidence, not Frye, provide the standard for admitting expert scientific testimony in a federal trial.

Thus, Frye's general acceptance test was superseded by the Rules' adoption. The Court noted that " the Rules occupy the field....the common law nevertheless could serve as an aid to their application

Additional Relevant Evidence before Agency according to the Maryland State Administrative Procedure Act is codified by Regulation COMAR 10.32.02.03(E)(8) and COMAR 10.32.02.03.(E)(7) and by State Government Article SGA Title 10 Section 10-222 on Judicial Review.

Federal Rule 702: Nothing in the Rules as a whole or in the Test and Drafting History of Rule 702, which specifically governs expert testimony, gives any indication that "general acceptance" is necessary precondition to the admissibility of scientific evidence (509 US 579, 7). Thus treatment effectiveness, continued demonstration of safety, and the absence of fraud, not general acceptance are recognised by the Legislature as the criteria for acceptance of scientific healings and Petitioner requests this

Court approves the Practice of Prayer Healing having been demonstrated historically and presently scientifically as good practice of Medicine.

The State Board may not determine Patient's Choice but it may determine that the Treatment modality chosen is Safe, is treatment effective and has been so proven by recognised Scientific Methods.

The State Board's absence of Neutrality in apportionment of "classes of businesses" principle exceeds its governmental people derived authority in compelling choice of safe and Effective treatment methods that each patient unit chooses to make. An equal vote effect of patient choice of Physician and Healing Methods according to Informed patient consent practice is required by the Equal Protection Clause of the Fourteenth Amendment of the US Constitution.

III The Supreme Court's grant of Writ of Certiorari in "its Promotion of the Progress of Science and Useful Arts" (Article I Section 8 US Constitution) will unify constitutionally medical and legal acceptance of Spiritual Technologies already in widespread public and institutional use and without public protection against the potential for abuse of spiritual Authority; acceptance of evident use by the Department of Defence-funded clinical trials (see Dr Brian Berman's Biosketch page 320) and help usher in much-needed Regulation and Guidelines to facilitate Virtuous Purposeful Research and associated Use of Spiritual Powers and Forces for the True Purposes for which our Creator has made them available to man. With Denial it will be construed as deeming illegal such use of Spiritual Forces for good, including Military Use as necessary during Wars, and deeming as illegal the necessary Regulation of depraved use of Spiritual Forces.

III The Maryland Court Decision did not provide healing and remedy to the US Congress Investigation well documented "System Errors" in the Health Care System, conduct of this case and Federal and State investigations of Maryland General Hospital medical administrators has highlighted.

The decision has thus not been in the interests of the People of Maryland and Petitioner on behalf of his patients therefore respectfully request Writ of Certiorari to review and adopt the beneficial practice of Healing Prayers.

III The Maryland Court decision inadvertently permits Approval for the continued Capricious Use of the Administrative Procedural Process and Peer Review Process, and the Legal Process to further Discriminatory Practice against Individual Physicians Practice and use of Innovations and Treatment Effective and Safe Healing Modality derived from outside the world viewpoint perspectives of medical administrators, whose conduct and belief (as in this case) may not been credible at all.

In emergently suspending Petitioner's License the Board relied on Maryland Statute Health Occupation Article Section 14-404(a)(22) provides: "Fails to meet appropriate standards as determined by **appropriate Peer Review** for the delivery of quality medical and surgical care performed in an outpatient surgical facility, office, hospital, or any other location in this State" holding as Appropriate Peer Review the review and opinions of the Family Medicine physician Dr Tim Keays weighed over the Subspecialist opinions of Internist and Endocrinologist Dr Clement Momah in violation of Maryland State Regulation COMAR 10.32.02.02(14) that weighs credibility on "the area of medical specialty most normally concerned with the medical act in question, and the practitioner of which area most likely familiar with the risks and benefit of that act"

Thus the Board's Emergency Suspension was statutorily unlawful and they were so informed at the Hearing and the Board's subsequent Ex Post Facto efforts to vindicate this first

of unlawful actions by an Ex Post Facto review Report by Endocrinologist Dr David Brown produced an unusually critical report described by Petitioner's Endocrinology Experts Dr Ola Odugbesan and Dr A Ayodeji as prejudiced and biased; moreso as an Ante Facto report by Intensive Care Physician Dr Roland had been complimentary of the medical care Dr Momah's patients had received.

Ex Post Facto Efforts at vindicating an inappropriate State Board action are unconstitutional violating Article 1 Section 10 of the US Constitution enforceable by the Due Process Clause of the Fourteenth Amendment of the US Constitution.

An inappropriate and unconstitutional political objective of seeking to Prohibit by Force, Intimidation and outright cruelty a Saving and Sought after Healing method simply because of being derived from a Religion though in its practice offered to all for an operation of willing acceptance informed consent

IV The Maryland Court decision permits continued application of Unequal Discriminatory Treatment to the use of Prayer by the State of Maryland in "Certified" Institutions where allowed and "Related Institutions and Hospitals" in Maryland where not permitted to the Practice of Medicine by Physician and is therefore discriminatory and unequal treatment in violation of the Fourteenth Amendment of the US Constitution

V The Maryland Court decision undermines the use of and continued research and development of Spiritual and Whole Being Medicine

Professor of Psychiatry William P Wilson of Duke University in his article "Religion and Psychoses points" out on page 162 that humans are more than biopsychosociospiritual beings and having a spiritual component means that they can have **SPIRITUAL DISEASE** and that this is the case with humans suffering with the disease of being **UNREGENERATE .** (Evans, 1984 Existentialism Grand Rapids, MI Zondervan quoted by

Prof Wilson) From an endocrinology perspective it is similar to Myxedema, with the lack of a vital energizing hormone, with thinking dysfunction. The spiritual problems are not due to "demonic activity or presence of demons in the world" but to a lack of the fullness of "the Holy Spirit of God" whose "In-dwelling Presence" is a Vital Hormone producing Spiritual Transformation to higher levels and Pace of Thinking, but also of Moral Purity and Righteousness. Professor William Osler of Johns Hopkins (The Evolution of Medicine) also confirms the presence of Spiritual Forces that affect events in each generation and at every age. The legal acceptance of spirit, heart, soul, mind, flesh, body, though historically replete within the traditions and publications of the Supreme Court, has not been required of this Court hitherto. The Practice and Science and Research of Spiritual Healing requires a legal acceptance of the existence of Spirits by this Court to open for third party reimbursement for spiritual healings and to advance necessary research.

Professor Wilson further identifies "the disease of sin (quoting MacKay, 1918 The Disease and Remedy of Sin, London:Hodder and Stoughton), and fanaticism and possession syndromes (Wilson 1976 Hysteria and demons, depression and oppression, good and evil. In J.W. Montgomery (Ed) Demon Possession (pp 223-231) Minneapolis, MN: Bethany Fellowship) which are all real Human Sufferings (overlapping with Schizophrenia, for example, only recently described and delineated by Bleuler 1950) for which modern day methods of Research applied to advance cures, has no doubt tremendous potential for overflow of knowledge and benefit into other branches of Science including the Pharmaceutical Industry. The Word of God says "my people are destroyed for lack of knowledge" not because demons are identified, but because the Scientific world have avoided this frontier of reality, because of the abuses of Inquisitions before the Reformation, thereby leaving unchecked "epidemic" proportions of diseases that are entirely demonic or have a demonic component. The irrational fear of demons and spirits (a disease in itself), which dissolves as soon as adequate knowledge is received, must not deter Scientific Progress even as man's previous fears about diseases

(including the Black Plague) evaporated with John Snow's demonstration in London that a corrupt well does disseminate disease.

Research into the Virtuous Use and Regulation of Spiritual Forces according to the Will of God, the Father of all Spirits, is also necessary on account of the Time Acceleration that occurred during September 11, 2001 Crisis, the possibility of which is now recognized by Creation Geologists and Theologians Physicists in the nuclear decay acceleration (accelerated alpha particles decay) timelines of zirconium-helium granite deposits. The recent confirmation that Carbon 14 C14 is measurable in diamonds from Africa confirm an Age of Creation of the Earth in 6-7 thousands of years rather than the millions of years proposed by Evolutionist Scientists. As Scientists we know the history of theory of evolution did not originate with Charles Darwin in the 19th century (whose final years and death bed recant is hardly published) but was proposed by Aristotle and probably this debate predated him, by one sowing doubts, denial and confusion concerning the works and operations of God, in the hearts of men; and thus destroying their most precious faith. God has reserved the power to turn Time to himself and has provided Time Physicians called "Prophets" to help Heal aberrations in Time that Nations and citizens cause, and take the limits off of Him to turn time in the direction and Pace that He wills, and to end the present Dispensation of Grace, so ushering the Millennium Reign of the Messiah.

God is completely in Control of all of man's activities on earth, even of the weather as recent experience confirms; the knowledge that the weather is not simply an inanimate element subject to man's inadequate knowledge of physics and geography has been abundantly shown to agree with Biblical descriptions of the Intervention of the Finger of God then with greater disbelief and Rebellion: the Hand of God. Hurricane Rita dwindled in size in response to Prayers to Almighty God. New Paradigms of the Re-Programming of Nature challenge

only the unbeliever who refuses historical proofs and proofs that abound in today's environment. But this Court of "the Brethren" is informed concerning spiritual powers and need no particular persuasion. What it does need is to know that the ROAR OF THE LION OF THE TRIBE OF JUDAH has sounded forth and has been heard by many prophets, warning of His imminent Coming, that the nations amend their Ways and their Laws back to Righteous Decrees of our GOD and Creator, and each individual humbly return back to the One who created us to bear His Glory upon the Earth, even as President Abraham Lincoln and presently President George Bush by his Faith-based Initiative, urge to have done.

This Court, though operating in the Name of the President of the United States, is by such delegated authority operating in the Name of God, and of the King of Kings The Messiah: Resurrected Jesus of Nazareth in whose Name and by Faith in the Power of His Name Healings are performed amongst patients. We are all obligated to simply perform righteously according to the best light of knowledge of God's Will each man has received from the Faithful God who is always present in the Judgment Seat and in the Judgment with the Judge.

Yet God delights not in obligated performance but in delightful performance of Righteousness and Righteous Decrees, Judgment and Discretion, Mercy, and Faith and those who persuade the wicked-ignorant and memory-forgetful to remember the Words of God the Creator, to each one at the beginning of his Creation (Psalm 22:27 and Isaiah 40

CONCLUSIONS

Showing of Desire and Public Interest in the Practice of Healing Prayers has been demonstrated by the Institute of Medicine Report published January 12th 2005 and confirm necessity to review and adopt the practice with guidelines as proposed by the Federation of State Boards of Medicine.

Petitioner further seeks for this Court to rule in favor of the Texas Criminal Court of Appeals determination that Schools of Medicine mean "systems, means, or method employed or schools of thought accepted by practitioner" Ex Parte Halsted, 182 S.W.2d 479, 1944 as is also interpreted by the IOM CAM Report and "that no preference shall ever be given by law to any schools of medicine."

The necessity of applying Judicial Decision of Probable Cause and upon Oath or Affirmation Prior to Search, Seizure or Arrest is demonstrated as a System Error or Breakdown problem that requires Judicial Decision even if a mobile unit is necessary. In particular a Judicial Officer tutored Neutral Judgment is necessary before the start of any Peer Review Process to stop abuses by medical administrators.

US Supreme Court definition of Secular Humanism and Ethical Culture in Toracoso v Watkins, 367 U.S. 488 (1961) [Footnote 11]

Ist Amendment Rights Worldview point Discrimination guaranteed by 1st and protected by the 14th Amendment from infringement

Article 36 Md Constitution on Religious Freedom

The Pledge: One Nation under God

COMAR 10.32.02.03(E)(8): The Prohibition from adding witnesses subsequent to the prehearing conference does not apply to witnesses or documents to be used for impeachment or rebuttal purposes.

COMAR 10.32.02.03(E)(7): Absent unforeseen circumstances which would otherwise pose an extraordinary hardship on a party: (a) Witnesses or documents may not be added to the list subsequent to the prehearing conference, if scheduled; or (b) If no prehearing conference is scheduled, witnesses or documents may not be added to the list later than 15days prior to the hearing.

Article 6 Md Constitution provides that all persons invested with the legislative or executive powers of government are the trustees of the Public, and are as such accountable for their conduct……the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind

Article 36 Md Constitution Religious Freedom: That as it is the duty of every man to worship God in such a manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty….Nothing shall prohibit or require the making reference to belief in, reliance upon or invoking the aid of God, or a Supreme Being in any governmental or public document, proceeding, activity. Ceremony, school, institution, or place. Nothing in this article shall constitute an establishment of religion

OXFORD/JOHNS HOPKINS Regius Professor of Medicine Sir William Osler's: "The Evolution of Medicine" Yale University Lectures
Johns Hopkins Hospital Library

Professor William Osler "The Faith that Heals" British Medical Journal 1910

HARVARD Professor Herbert Benson: "Timeless Healing"

Journal of the American Medical Association (1998) Editorial : Fontanarosa and Lundberg

Jonas WB (202) Policy, the public, and Priorities in Alternative Medicine Research. Annals of the American Academy of Political and Social Science 583:29-43

Dr Larry Dossey: The Power of Prayer and the Practice of Medicine (1993)

Dr Dave Mathews: The Faith Factor

Pulchaski CM, Larson DB: "Developing Curricula in Spirituality and Medicine" Academy of Medicine 1998; 73: 970-4

CLEMENT I MOMAH MD
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PETITIONER/APPELLANT

VERSUS

STATE BOARD OF PHYSICIANS
4201 PATTERSON AVENUE
BALTIMORE MD 21215

PETITIONEE/APPELLEE

IN THE COURT OF APPEALS
AT ANNAPOLIS MD

SEPTEMBER TERM 2005

PETITION NO 350

AMENDED PETITION FOR WRIT OF CERTIORARI

Date: October 20th 2005

Circuit Court No 24C02474

Court of Special Appeals No 391 September Term 2003

Petitioner/Appellant Dr Clement Momah, petitions the Court of Appeals for Writ of Certiorari for stay of mandate of the Court of Special Appeals, Re-Opening of Appeal, the formal entering and taking of all the Additional Evidence presented by Petitioner/Appellant pursuant to State Government Article 10 Section 10-222(f)(1)-(4); a consequent stay of the final decision of State Board of Physicians and a Full Hearing of the Merits of this

Administrative Procedure Act case brought by the State Board of Physicians against PetitionerAppellant, following inclusion of Healing Prayers in His Medical Practice, according to Informed Consent of the patients, and a prior effort at clarification of the Board's legal policy concerning healing prayers. Dr Clement Momah further petitions this Court for a formal approval of the Practice of Healing Prayers as Good Medical Practice based on all the evidence submitted- as already approved for the Board of Professional Counsellors and Therapists under Title 17 of the Health Occupation Code. On account of initial **Error of Judicial Discretion to Exclude** Evidence that Regulation COMAR 10.32.02.03(E)(8) AND COMAR 10.32.02.03(E)(7) PRECLUDE exclusion of: the exclusion of Appellants Competent Rebuttal Evidence of Witnesses and Documents for impeachment and rebuttal, that completely exonerates Appellant, this case has progressed along judicial review and Appellate Courts, requiring Correction of initial Abuse of Judicial Discretion. Failure to recognise that the reach of COMAR 10.32.02.03(E)(4) demanded in Motion by Board is already curtailed by COMAR 10.32.02.03(E)(8) and COMAR 10.32.02.03(E)(7), has led to application of substantive evidence test to only evidence presented by the Board, whilst Appellant's Rebuttal evidence and Documents had been excluded contrary to law. The nature of the error was called to the

Administrative Law Judge's attention whose judicial weighing proscribed any unfair prejudice to the Board for adequate time in preparing interrogatory questions for rebuttal witnesses and documents. Overlooking equitable estoppel and applicable remedies according to Rules of Privilege that the law recognizes as provided for in SGA title 10 Section 10-213(e) of the Administrative Procedure Act, the Administrative Law Judge at the Administrative Hearings and the State Board of Physicians at its Exceptions Hearings denied jurisdiction to hear Dr Clement Momah's experts witnesses and include all documents produced particularly those for rebuttal and impeachment, and especially the Maryland General Hospital Medical Staff By-Laws [by the Board's own witnesses (Dr Michael Hull) already incorporated into the Record by Reference: SGA Title 10 Section 10-213g(2)] controlling of answers to questions on Application Forms to which misstatements or errors of understanding from Dr Momah on his Application Form answers, had been supposed by the Board attorneys. Thus a hearing on the full merits of the case as provided for in the Administrative Procedure Act State Government Article Title 10 has not been afforded Appellant. The evidence provided by Appellant completely exonerates Appellant from allegations of the Board [as the Board will confirm with taking Additional Evidence according to SGA Title 10 Section

10-222(f)] and confirm the value of incorporating Healing Prayers in Medical Practice as Appellant had inquired of the Board prior to doing so in his Practice based on the extensive published studies of the Efficacy of Healing Prayers.

CONTENTS

ADMINISTRATIVE LAW JUDGE PROPOSED DECISION

January 16th, 2002

DECISION OF THE STATE BOARD OF PHYSICIANS

July 25th, 2002

JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY DECISION

ACTION IN THE CIRCUIT COURT

1. March 11, 2003: Appeal dismissed under premise as stated by Judge that the Board had more than substantial evidence to suspend and revoke Appellant's Medical Licence

2. The Court restricted itself to only the Substantial Test; and did not apply a necessary prior Test of legal correctness; the Court did not weigh judicial error of exclusion of rebuttal witnesses and documents by both Administrative Law Judge and the Board of Physicians' Exceptions Hearings contrary to Regulation COMAR 10.32.02.03(E)(8) and COMAR 10.32.02.03(E)(7) and contrary to Rules of Evidence of the Administrative Procedure Act Section 10-213(a)-(i) of Title 10 State Governmental Article Moreover contrary to SGA Title 10 Section 10-222(g)(3) that provides: On request the court shall: i) hear oral argument; and ii) receive written briefs. This title also provides Section 10-222(g)(2): a party may offer testimony on alleged irregularities in procedure before the presiding officer that do not appear on the record. Thus Judge Hammerman's denial of Appellant the leave to testify of Error of Judicial Discretion Exclusion of Rebuttal Evidence was a denial of Due Process of Law of the Judicial Review Process, and a denial of the claims of Appellant.(Section 10-222(g)(1)-(3)

DECISION BY THE COURT OF SPECIAL APPEALS

1. September 24th, 2003: Appeal dismissed for failure to pay the requisite filing fee following

Notification by letter dated August 25th, 2003 that appeal would be dismissed if the filing fee or Motion to waive fees and affidavit were not received by September 5th, 2003

2.Appellant had been unavailable to receive Notification at his address having been detained by the State of Maryland for suspended Driving privilege for an unpaid seat belt ticket and released only after Order to Dismiss was entered by Court of Special Appeals.

Appellant had already motioned the Court of Special Appeals on June 16th 2003 to waive Court Costs prior to being detained, and subsequently provided confirmatory evidence to the Court of then contemporaneous finding of Indigency from the District Traffic Court. (Appellant Record Extract E638)

3. A Panel of Court of Special Appeals have determined that the Court of Special Appeals by its own Rule (Maryland Rules 8-602(c)(4))is without the Authority to Recall its mandate after Motion for Reconsideration has been denied, and that there be no further Motion for Reconsideration in the same court, therefore have dismissed the Appeal

Nevertheless, this Overlooks the issue of equitable estoppel and applicable remedies according to Rules of Privilege that the law recognizes as provided for in SGA title 10 Section 10-213(e) of the Administrative Procedure Act and has been argued in Appellant's Brief and Reply Brief

JUDGMENT OF CIRCUIT COURT DID NOT ADJUDICATED ALL CLAIMS IN THE ACTION IN THEIR ENTIRETY

Disability of Judge Robert Hammerman (Rule2-536 Civil Procedure of Circuit Court) by his own admission covering time of trial, stated having severe recent and remote memory defects and visual defects that must be weighed in the judicial performance and the Court's understanding of this case.

Petitioner also petitions Judicial Notice of published Suicide Report and Suicide Note of Judge Robert Hammerman indicating diagnosed Macular Degeneration with Central Visual Loss making clear reading from the Central Vision exclusive from the Macula most difficult, and writing and signature even more difficult. The Suicide Note was mailed to 2200 recipients and published in several newspapers in its entirety.

Judge Hammerman's self description of moderately Severe Memory Losses for 1 to 2years predating his adjudication of this case(2 to 3years at time of writing his suicide note in November 2004) questions the competency of his exercise of "judicious adjudication" of all claims in their entirety; and provides a medical reason for his 'unusual' conduct of the trial and a refusal to permit Appellant any presentation of "judicial error exclusion rebuttal and defense witnesses" or Appellant's right to dismiss Counsel, unprepared and thus with incompetent performance.

Rule 2-536 provides for grant of a new trial, replacement by another Judge or such other relief as justice requires. It cannot be assured that Judge Hammerman was able to perform the mental evaluative requirements of judging as well as obligatory duty of reviewing the Evidence by reading. Consistent with this self admission, Judge Hammerman did not sign or provide a written judgment to the Clerk's Office of the Circuit Court and none was received by appellant or noted by appellee, State Board of Physicians. Rule 2-601(a) provides that a judgment is effective only when so set forth and when entered as provided in section (b) of this Rule. Whereas the judgment is entered by the Clerk on the Court Docket, there is no written and signed judgment by Judge Hammerman and the two conditions for its effect according to Rule 2-601(a) are not completely fulfilled.

Appellant therefore petitions the Appellate Courts to rescind Judge Hammerman's Review and that the final decisions at the Administrative Agency Level - the decisions of the State Board of Physicians are the decisions subject to Appellate Judicial review as has been repeatedly stated by the Court of Appeals, confident that Appellate Review will be complete and correct judicial exercise of wise judgement.

DATES OF JUDGMENT OF THE COURT OF SPECIAL APPEALS TO BE REVIEWED

September 24th, 2003	E565 on Appellant's Record Extract
December 31st, 2003	E625 on Appellant's Record Extract
Mandate January 12th, 2004	E626 on Appellant's Record Extract
May 5th, 2004 Recalling Mandate	E639 on Appellant's Record Extract
June 29th 2005 Dismissing Appeal	

FINAL MANDATE OF THE COURT OF SPECIAL APPEALS

September 9th 2005

QUESTIONS PRESENTED FOR REVIEW

1) Whether the people of Maryland should be denied the use of a novel' scientific method of Healing, proven safe and treatment effective to proof level standard of evidence of "a medical breakthrough", by State Board of Physicians and by medical administrators proven non-credible, on account of religious bias and hostility, medical politics and economics and prior practice and traditions of medical administrators because of historical derivation of the "novel scientific method" from the healing Practices of Evangelical Christianity
2) Whether Additional relevant evidence post-decision, in a Maryland Administrative Procedure Hearing, is adequate inducement and provides equitable estoppel to re-review the decision of the Unit: Agency, and Court in the light of the Additional Evidence provided, and whether common law and statutes or regulation do overcome any inconsistent rules of the unit
3) whether the Court of Special Appeals erred in its Judicial discretion in dismissing Appeal on Dec 31st 2003 and June 29th 2005, September 8th, 2005 failing to construe the Rules of Court Operations to secure fairness in administration, elimination of unjustifiable expense and delay, overlooking estoppel, the construction of rules accordingly in the light of

the totality of the circumstances, the flexible procedural protections as the particular situation demands, and the purpose of the Rule, and whether these rules supercede common law or statute inconsistent with these rules Rule 1-201 Rules of Construction

4) Whether the Court of Special Appeals erred overlooking the grounds for entitlement to the waiver, as set forth by Rule 1-325, and documented confirmation of Indigency finding by District Court Judge with Petitioner then unable by reason of poverty and unavailable by detention of orders of the State Attorney General's Office, to pay those costs of filing, and without requesting explanation or supplementation when the request for Appeal Process was demonstrated meritorious and not frivolous

5) Whether Appellant/Petitioner has standing to raise the constutional rights of patients with whom professional physician-patient relationship has been invaded by the State Board of Physicians against "the freedom to associate and privacy in one's association ' when no unlawful activity has taken place, or there was no unsolicited patient complaint (against First Amendment where Privacy is protected from Governmental Intrusion, "the Bill of Rights Penumbra")

6) Whether the State Board's Construction of the Health Article was Prohibitory rather than regulatory, thereby an unreasonable Prohibition of

"a lawful business" in the Practice of Medicine amounting to a violation of the Due Process Clause of the XIV Amendment

7) Whether the State Board is liable for Financial Recoveries of Petitioner for its abuse of the Medical Review bodies and professional peer review activites under Health Occupation Article Title 1 Subtitle 1-402 which governs Suits brought under State Law for all of Petitioner's three Medical Offices and SubSpecialist Consultant Medical Practice amounting to 50% of Patients at MGH who are diabetic and 45% at IKNH estimated claim of $58million over 6years

8) Whether the fundamental rights of Petitioner for a right of Jury Review are preserved by his demand at Circuit Court of Baltimore City for Hearing by Jury Trial in establishing Compensation for injury under Subtitile 1-402

9) Whether the State Board's selection of its Endocrinology Expert, after Summarily Suspending Appellant/Petitioner, for a retroactive establishment of this Suspension decision against Appellant ex post facto was unconstitutional and prohibited by the Contract Clause of Article 1 Section 10 of the US Constitution, and an infringement of Physician's Individual Rights of Due Process Protection under the 14th Amendment

10) Whether the State Board's failure to adopt Pleadings Prayer to God Healings as part of Practice of Medicine in light of the totality of the evidence of safety and treatment effectiveness published in medical literature according to scientific methodology constitute an Impairment of the Obligation of Contracts of Article 1 Section 10 for the Public Safety Health and Benefit of the People of Maryland

11) Whether the State's neglect of "legal acceptance definiton" of "the Soul" and "the Spirit" of Man necessary in the Practice of Healing Prayers in the Practice of Medicine is unconstitutional according to 1st Amendment Rights of Freedom of Religion, and IV and Vth Amendments of the US Constitution enforceable against the States by the Due Process Clause of the XIV Amendment

12) Whether a rule of the Court of Special Appeals which is substantive and creates the right [a condition precedent] "can be waived if there is sufficient evidence of inducement and equitable estoppel under Maryland administrative law as was also determined by the Chief Judge of the Court of Special Appeals on May 5th, 2004 Order.

a) Whether the unavailability of Appellant (Dr Clement Momah) during the overlapping-period of detention by the State of Maryland, the evidence of confirmation of then Indigent status by the District

Court, contemporaneous with decision of Court of Special Appeals to dismiss on September 24th 2003 for nonpayment of Court Costs upon a motion by Appellant for costs waiver; and Appellant's subsequent satisfactory compliance with the procedures of Court of Special Appeals; constitute equitable estoppel and a waiver of substantive statute of a Rule of the Court [(Maryland Rule 8-602(c)(4)] concerning the Court's decision on Motion of Reconsideration in light of an Additional relevant evidence of indigency post-decision.

13) Whether the decisions of the Board resulting from an unlawful procedure against Petitioner/Appellant are subject to reversal and modification

14) Whether the Administrative Law Judge committed error when he excluded Appellant's Rebuttal Witnesses and Documents after having noted their relevancy

15) Whether the State Board erred in failing to select Psychiatrist and Psychologist according to "Class of Business" Criteria of according to Religious Persuasion of Petitioner/Appellant when it made use of "boundary issues of religion in the work place" an issue before it rather than the Neutrality of "the primary objective of the Healing Method" derived from a Religious Practice

16) Whether the State Board's selection of its Endocrinology Expert, after Summarily Suspending Appellant/Petitioner, for a retroactive establishment of this Suspension decision against Appellant ex post facto was unconstitutional and prohibited by the Contract Clause of Article 1 Section 10 of the US Constitution, and an infringement of Physician's Individual Rights of Due Process Protection under the 14th Amendment

17) Whether a Disciplinary "Appropriate Procedure" (Psychiatry and Psychology Testing)done without Probable Cause and only by coercion of Immediate Suspension (Health Occupation Article Section14-402), unconstitutionally violate the Rights of Physician Appellant, according to Amendment IV of the US Constitution, the right of the for people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation enforceable through Due Process Clause of 14th Amendment

18) Whether the State Board's failure to adopt Pleadings Prayer to God Healings as part of Practice of Medicine in light of the totality of the evidence of safety and treatment effectiveness published in medical literature according to scientific methodology constitute an Impairment

of the Obligation of Contracts of Article 1 Section 10 US Constitution for the Public Safety Health and Benefit of the People of Maryland

19) Whether the State Board erred in delegating its State Government, People of Maryland invested Police Powers of Investigation and Authentification of Complaints and Allegation of a Licensee to medical administrators of MGH and IKNH.

20) Whether the State Board of Physicians is liable for the financial compensation of Appellant for loss of his Medical Practice Businesses at three locations (MGH, at IKNH and at Lanham) following State Board's abuse of the Peer Review Processes of Section and Whether this compensation Claim is to be set by the Court or by Jury according to Law governing recoveries against medical review bodies and professional peer review activities Health Occupation Article Title 14 Subtitile 1Section 1-402

21) Whether the State Board having failed to state a binding legal policy on inquiry by Petitioner and having negligently failed to act and adopt regulations, could revoke Medical License of Appellant/Petitioner for practising "beyond the boundaries of professional medical practice by praying with his patients according to informed patient consent" when State Health Freedom Laws/ Access to Medical Treatment Act" are

promulgated in over 25 States in the US and Prayer and Invoking the Name of God is a legal constitutional activity surported by Article 36 Maryland Constitution and Article 36 US Constitution; Section 4 of Title 4 US Code and the US Pledge Protection Act of Public Law 107-293 November 13 2002 reaffirming the religious heritage of the United States and the State already had provisions for use of prayer in the Health care of patients under other professional Classes.

22) Whether the State Board's use of secular Psychiatrist and Psychologist failed to adopt Regulation according to "class of businesses" as required by State and Rule misconstrue the purpose and intention of legislation and Constitution, and violate the constitutional Right of Examinees to Right of Religious Freedom and Religious Liberty

23) Whether the State Board of Physicians has negligently failed to adopt recommendations of the Federation of State Boards of Medicine (2002) and the Institute Of Medicine Recommendations from the National Academy of Sciences (Jan 12 2005) that treatment effectiveness and safety of modalilty of medical therapy demonstrated in peer review medical publications should determine stay of government prohibition or intrusion

24) Whether the State Board erred from its Statutory Neutral policy in compelling "Appropriate Examination" by a secular Psychiatrist and Psychologist of a hostile worldviewpoint and religious attitude against a Christian Appellant/Petitioner when Legislative State Statute already provided for "classes of businesses" Impact Evaluation and an adjusted response for each "class of business"

a) Did the State Board violate Appellant's Freedom of Religion Rights to subject him to evaluation under a hostile religion with no understanding of the tenets of the Religion and Worldviewpoint or Mindset to be examined

b) Whether the State Board abused its Police Powers in summarily suspending and closing down Dr Clement Momah's Medical Practice Businesses before it had "Probable Cause"

25) Whether the State Board's use of secular Psychiatrist and Psychologist failed to adopt Regulation according to "class of businesses" as required by State and Rule construe the purpose and intention of legislation and Constitution a secular psychiatrist for secular and a Christian Psychiatrist for Christian

26) whether the Court of Special Appeals erred in its Judicial discretion in dismissing Appeal on Dec 31st 2003 and June 29th 2005, failing to construe

the Rules of Court Operations to secure fairness in administration, elimination of unjustifiable expense and delay, overlooking estoppel, the construction of rules according in the light of the totality of the circumstances and the purpose of the Rule, and whether these rules supercede common law or statute inconsistent with these rules Rule 1-201 Rules of Construction

1) And overlooking the grounds for entitlement to the waiver, as set forth by Rule 1-325, and documented confirmation of Indigency finding by District Court Judge with Petitioner then unable by reason of poverty and detention by the State Attorney General's Office, to pay those costs of filing, and without requesting explanation or supplementation when the request for Appeal Process is meritorious and not frivolous

27) Whether the State Board of Physicians demonstrated Concerted Acts of Hostility and Conspiracy along with the Hostility and Conspiracy of the medical administrators at MGH and IKNH

28) Whether the ALJ erred in delegating his "trier of fact" responsibility to the Psychiatrist to adopt a Psychology report impeached for unreliablity and relevance by unprofessional conduct of Psychologist (by the only testimony subject to confrontation and cross-examination) in methodology and relevance and violation of Rights of Appellant to record proceedings against

continued conspiratory conduct of Physicians, and when Psychologist had confirmed to Appellant he was not knowledgeable in evaluating Christian Ministers Personality, and Procedure had proceeded on Ad Hoc searching extension of scheduled IQ Testing (Intelligence Quotient Testing)

29) Whether worldviewpoint discrimination against Christian beliefs and Healing practice by medical administrators permit the use of the administrative Peer Review process of the State Board of Physicians to discourage Faith-based Healing Initiatives by Processes of Intimidation and false Allegations of misrepresentation in Application Form or loss of standard of medical Care?

(30)Whether the State Board could allege Professional Incompetence when it unconstitutionally excluded Petitioner's exonerating Expert Endocrinology Opinion from its deliberations when presented at the ALJ Hearings and at the Exceptions Hearings and unconstitutionally adopted opinion from Endocrinologist opinion ex post facta selected by Ad Hoc decisions and contrary to Regulation adopted opinion of lesser qualified Family Practitioner

(31)Whether the State Board could allege wilful misrepresentation on Application Form when it deliberately excluded the Evidence of this being

in error according to MGH Medical By-Laws when presented to it by oral testimony as well as documentation

(32)Whether the State Board could allege Mental Incompetence on the basis of an unlawful Procedure of Psychiatry and Psychology Examination

(33)Whether the State Board could allege immoral or unprofessional conduct in the practice of Medicine when it failed to authenticate the allegations from "medical administrators" proven by State Action and US Congressional Investigations to have been "not credible" and engaged in fabrication, intimidatory control of colleagues reportings and generation of false reports

(34)Whether the State had inadvertently or otherwise practiced a form of "Equal but Separate" form of Discrimination against Pleadings Prayer to God Healings in its practice of Prohibition of Medical use in "Hospitals" and "Related Institutions" as opposed to "Certified Institutions" thereby violating Equal Protection of the Law under the XIV Amendment of US Constitution

(35)Whether the State Board continues to be liable for its continued publication and Public Defamation of Appellant's Name and Character to several States and on its websites to the world of "false allegations and charges" about Appellant's lawful practice of Medicine

(36)Whether Psychiatry and Psychology are exact Sciences to justify deprivation of life, liberty, property without due process of law, and to have private property taken, without just compensation in violation of to the V Amendment or to have cruel and unusual punishments inflicted, with excessive bail and excessive fines in violation of the VIII Amendment

(37) Whether the Court of Appeals has the Authority to recall mandate of the Court of Special Appeals

CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, REGULATIONS

Constitutional Provisions

US Constitution Amendment VI

US Constitution AmendmentV

US Constitution Amendment I

US Constitution Amendment XIV

US Constitution Amendment VIII

Statutes

State Government Article Title 10 Section 10-222(f)

State Government Article Title 10 Section 10-222 on Judicial Review

SGA Title 10 Section 10-213

SGA Title 10 Section 10-213(e)

APA Section 10-222(h)(3)(vi)

Maryland Health Occupation Code Ann Section 14-402

Maryland Health Occupation Code Ann Section 14-401(e)

SGA Title 10 Section 10-222(e) and (f)

Ordinances

Fed R. Evidence 803-4

Rule 8-602(c)(4)

Rule 8-605

Maryland Rules 8-302(a)

Rule 8-303

Regulations

COMAR 10.32.02.03(E)(8)

COMAR 10.32.02.03(E)(7)

COMAR 10.32.01.06.(E)(1)(e)

COMAR 10.32.02.03(E)(4)

COMAR 10.32.02.02(14)

Cases Cited

1)Court of Appeals on Engineering Mangement Services Inc v Maryland State Highway Administration No 71 September Term 2002 pages 30-31 quoting the Court of Special Appeals in Ohio Cas Ins Co v. Hallowell, 94 Md App 444, 456-59, 617 A.2d 1134, 1139-41 (1993)

[(Eng Mgmt Serv v MD State Highway Ad 375 Md 211, 235 825 A2d 966, 980 (2003)]

2) Gigeous v Eastern Correctional Institute 363 Md 481, 496, 769 A2d 912, 921 (2001)

3) Dept of Health v Campbell, 364 Md 108, 771 A.2d 1051, 1060 (2001)

STATEMENT OF THE FACTS

On January 27th 1999, in reply to inquiry on the State Board of Physicians position on Healing Prayers, Appellant received letter from the Board (E003 Record Extract) confirming Healing Prayers as Complementary Medicine. With incorporation of Prayers in Appellants Medical Practice with no loss of clinical standards in Patient Outcomes, Appellant's Practice came to be scrutinized and allegations of loss of clinical standards, unprofessional coduct, 2 false answers on Application Forms and inappropriate use of Prayers in the workplace made from index Hospital Maryland General Hospital; suspension of clinical priviledges during Investigation triggered Board Investigation of Appellant first by Psychiatric and Psychological Testing without appropriate indication. The results were considered by Board Psychiatrist satisfactory to continue the practice of medicine. With further suspension of Appellant's clinical priviledge by an affiliated Nursing Home: Irvington Knoll Nursing Home triggered by allegation, by a family practice physician, of loss of standard in management of "low blood sugar" of a diabetic patient in the area of Appellant's Internal Medicine and Endocrinology SubSpecialization, the Board Psychiatrist reversed his expert opinion of Appellant's safety at Medical Practice, and the Board summarily suspends Appellant's Medical License on December 20th 2000 holding the Family Practice Physician opinion more credible than Appellant Internal

Medicne and Endocrinology Subspecialization opinion, contrary to Board Regulation COMAR 10.32.02.02(14) on "the area of medical specialty most normally concerned with the medical act in question, and the practitioner of which area most likely familiar with the risks and benefit of that act" . An Administrative Law Judge Hearing on October 16-18th, 2001 excludes Appellant's Rebuttal Witnesses and Documents, and basing his findings of fact only on Board allegations and recommendations, proposed Suspension andRevocation of Medical License of Appellant on January 16th, 2002. This Proposal is accepted following the Boards' Exception Hearing in April 22nd 2002 in which Appellant's Rebuttal Witnesses and Documents continue to be excluded. Final Board Decision is made July 25th, 2002 to Suspend permanently and Revoke Dr Clement Momah's License because of a belief expressed by Board Psychiatrist that as Dr Clement Momah was resistant to accepting his alleged diagnosis of lifelong Narcissistic Personality Trait, he was therefore not amenable to clinical therapy, therefore his Medical License be revoked until he believed in the diagnosis. Appellant had demonstrated by Evidence entered into the record at both the Administrave Law Judge Hearing and the Board's Exceptions' Hearing that the Psychologist Report pivotal to the recommendations and decisions did not reach standards for evaluation for Personality. These were confirmed by

both Christian Psychologist and Christian Psychiatrist Reports that found no abnormality to preclude the practice of Medicine.

Failure by the Board to produce its most relied on declarant report witness for Trial Confrontation without demonstration of unavailability where utility of trial confrontation was certain (Fed Rules of Evidence 803(4) the Confrontation Clause US Constitution 6th Amendment) goes to demonstrate the Board's apprehensions that the Psychology Report had been derived under adverse and disputed conditions and the disputed interpretations of the testings by the psychologist and the reversals of Diagnosis and its implication would not stand up to necessary Trial Confrontation for its Authentification.

The Board's witness' psychology report (obtained under controversial and contested circumstances) had been pivotally upon Board's decision to revoke Appellant's Medical License, even reversing the diagnosis of Board Psychiatrist with his own admission of superior diagnostic ability over Psychologist, yet the Board did not bring to trial this declarant (Board psychologist) for confrontation contrary to Fed Rule of Evidence 803(4) and the US Constitution 6th Amendment. Appellant has provided abundant evidence that the Board's expert psychologist report did not attain published standards of Personality Evaluation (Appellant's Record Extract E032 and

E031). Moreover, Evaluations and Appropriate Christian Psychologist and Christian Psychiatrist reports have also completely refuted the claims of the Board's psychologist. (Appellant's Record Extract E016 and E017-021). Regulation COMAR 10.32.02.03(E)(8) provides for rebuttal evidence and documentation with no time limitations. State Government Article Title 10 Section 10-222(f) Judicial Review also provides for Additional Evidence before Agency

Appellant appealed to Circuit Court for Judicial Review with Judge Robert Hammerman on March 11th, 2003, and Judge Hammerman concurred with the Board based on the Substantial Test of admitted Evidence. Appellant's was denied Due Process of Law as he was denied presentation of "Judicial Error in excluding Rebuttal and Impeach Evidence not subject to exclusion". Judge Hammerman's Opinion is entered in Circuit Court Docket March 14th, 2003 and Appellants Appealed to the Court of Special Appeals on April 10th, 2003. However no written or signed copy of Judge Hammerman's Opinion was seen by the Clerk's Office

On June 10th, 2003 Appellant filed Motion to waive Court Costs based on Indigency, and whilst preparing the affidavit, Appellant was arrested and detained 110days for "Driving with a Suspended Driving Priviledge" from

an outstanding Seat Belt ticket. Appellant is released from detention after the September 25th 2003 decision to dismis of the Court of Special Appeals. Appellant's Motion to Reconsider and affirming Indigency at the time of September 25th 2003 decision was denied December 31st 2003. Mandate issued January 12th 2004. Motion to Re-Open Appeal with documented post-decision evidence of Indigency accompanied by full payment of all fees was filed Febrary 10th 2004 and with submission of Additional Evidence to Court confirm Normal Personality and Mental Status Examination by Christian Psychologist and Christian Psychiatrist. Motion to Re-Open granted May 5th 2004 Order, according to Administrative Procedural Rules for Additional Evidence, confirming recalling of Mandate. Public Evidence becomes available of Professional Misconduct and Fabrication of Lab resutlts amongst Medical Administrators at index hospital Maryland General Hospital with same Administrators who had raised false reports against Appellant been forced to resign, and publically confirmed as untrustworthy by US Congressional Investigative Hearings.

Board filed Motion to dismiss challenging the Authority of the Court of Special Appeals to recall its Mandate and was denied without prejudice with permission to raise motion to dismiss in its Brief.

Briefs were final in February 15th 2005 and Court of Special Appeals Panel of Court granted Motion to Dismiss June 29th 2005 citing Rule 8-603(c)(4) (No further Reconsideration by the Court; the moving party may not obtain further reconsideration of the dismissal pursuant to Rule 8-605in the Court of Special Appeals: Reconsideration in reference to December 31st 2003 Court decision). The Court of Special Appeals has further graciously declined a Reconsideration of its June 29th 2005 decision and issued its Mandate September 9th,2005.

Section 10-222(f) provides

(1) Judicial review of disputed issues of fact shall be confined to the record for judicial review supplemented by additional evidence taken pursuant to this section

(2)The Court may order the presiding officer to take additional evidence on terms that the court considers proper if:

i) before the hearing date in court, a party applies for leave to offer additional evidence; and

ii) the court is satisfied that:

1. the evidence is material; and

2. there are good reasons for the failure to offer the evidence in the proceeding before the presiding officer

(3) On the basis of the additional evidence, the final decision maker may modify the findings and decision

(4) The final decision maker shall file with the reviewing court, as part of the record:

i) the additional evidence; and

ii) any modifications of the findings or decision

ARGUMENTS IN SUPPORT OF PETITION

In its June 29th, 2005 unreported decision to dismiss, and in its September 9th, 2005 Mandate, the Panel of the Court of Special Appeals reaffirmed its Rule of Court Procedure Rule 8-602(c)(4) of no further Reconsiderations by the moving party in the Court of Special Appeals under Rule 8-605 Reconsiderations. This had been made a bar to a full hearing of the merits of this Administrative Procedure case before the Court

Nonetheless, Maryland Rules 8-302(a) and Rule 8-303 permit Petition for Writ of Certiorari to the Court of Appeals for Re-Review of

(1)the September 25th, 2003 Order to Dismiss of the Court of Special Appeals,

(2)the attendant circumstances, and the equitable estoppel

(3)Appellant's satisfaction to the Court as recognised by the Order of the Chief Judge of the Court of Special Appeals on May 5th 2004 Re-Opening the case and recalling the Court's Mandate.

And for a Writ of Certiorari that Re-Opens the case for a full hearing on the merits of the case. The only remaining objection by Appellee on this matter of Re-Opening the Appeal Rule 8-602(c)(4) has been satisfied by coming to this higher Appellate court under Rules 8-302 and Rule 8-303.

In granting State Board's Motion to dismiss based on Maryland Rule 8-602(c)(4): No further Reconsideration by the Court- When an order dismissing an appeal is reviewed by the Court on motion filed pursuant to **this section**, the moving party may not obtain further reconsiderations of the dismissal **pursuant to Rule 8-605**. Rule 8-602(c) is pertinent only to "*motions filed within 10days after entry of order*" so **section 8-602(c)(4) does not apply to Reconsideration filed under Rule 8-605 within 30days of order (outside of section 8-602(c)(4) exceptions).**

Massey v Inmate Grievance Office(2003) No 2229 September Term 2002 Filed December 9, 2003 Court page 3 quoting Dep't of Natural Res v. France, 277 Md. 432, 461-62, 357 A.2d 78, 94-95 (1976) "Where there is a specific enactment and a general enactment "which , in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its language that are not within the provisions of the particular enactment"" (citations omitted))

Thus Motion to Re-Open at 30days and recall of mandate was appropriate. Moreover **Rule 8-303** Petition for Writ of certiorari permits a review of September 24th, 2003 decision as it was based on erroneous premise and findings of fact, in light of the Petitioners/Appellant's invoking Considerations for Entitlement to Waiver: Rule 1-325 and Court and Judicial Proceedings Section 7-201 and Rule 8-201(b) and by District Court Judge Certification of Indigency complying with Rule 8-201 upon which the decision to dismis had been grounded. Thus the rescinding of decision of Court: September 24th, 2003 is appropriate and the Mandate of January 12th 2004 re-called appropriately by the Chief Judge's May 5th, 2004 Order. All Decisions of December 31st, 2003, June 29th, 2005 and September 8th, 2005 based on September 24th, 2004 decision require appropriate rescinding

and the September 9th, 2005 Mandate of the Court of Special Appeals to be recalled and the Appeal reinstated for the hearing and Court Decision on the Merits of the Case, which constitutionally and as a matter of law are in favor of Petitioner/Appellant and the People of the State of Maryland and the People of the United States; Griswold Supreme Court confirming purpose of state government to regulate and not control or prohibition of lawful activity in physician-patient relationship protected by rights of privacy

Petitioner further requests financial compensation, restoration, healing and relief compensation Claim is to be set by the Court or by Jury according to Law governing recoveries against medical review bodies and professional peer review activities Health Occupation Article Title 14 Subtitile 1Section 1-402 as the State Board of Physicians is liable for the financial compensation of Appellant for loss of his Medical Practice Businesses at three locations (MGH, at IKNH and at Lanham) following State Board's abuse of the Peer Review Processes of Section Petitioner also requests financial compensation for the Public slander, Public humiliation, Religious Injury Infliction by Compulsory Psychiatric Examination against his religious Beliefs, harassment by State officials and the pain inflicted upon Petitioner's family and family name by State fabrications. Petitioner requests any order from the Court as required for Additional Information as necessary

to make a full and informed determination of Petitioner Injury Claims and a full and just compensation

The Administrative Procedure Act (State Government Article Title 10 Section 10-222 on Judicial Review) permit Additional Evidence before Agency Section 10-222(f) and Additional Evidence is also codified by Regulation COMAR 10.32.02.03(E)(8) and COMAR 10.32.02.03(E)(7) and by Maryland Rule 2-534, and by Gigeous v Eastern Correctional Institute 363 Md 481, 496, 769 A2d 912, 921 (2001). Moreover the Court of Appeals in Engineering Mangement Services Inc v Maryland State Highway Administration No 71 September Term 2002 pages 30-31 quoting the Court of Special Appeals in Ohio Cas Ins Co v. Hallowell, 94 Md App 444, 456-59, 617 A.2d 1134, 1139-41 (1993) "correctly concluded that a statute of limitation which is substantive and creates the right (a condition precedent) "can be waived if there is sufficient evidence of inducement, estoppel, fraud or waiver" 94Md. App. At 459, 617 A.2d at 1141

So a review of the Court of Appeals Sept 25th 2003 decision with District Court confirmation of then present Indigency and Appellant's unavailability by being detained by the State which also is the Appellee/Respondent in this case, and Appellant's subsequent full payment of Court Costs and

requirements confirm the equitable estoppel inherent in the right and wise Chief Judge Decision to reverse December 31st, 2003 Order to dismiss by Re-Opening the Appeal for a full hearing on the Merits of the Case and Re-calling its Mandate.

Moreover Appellant has demonstrated a confirmed substantial compliance with the Operative Procedures of the Court of Special Appeals with the Briefs and Reply Briefs having been accepted, and Appellant's claim is completely valid that Rebuttal Evidence and Documents unlawfully excluded at the Administrative Law Judge level as well as all Additional Evidence in the Record Extract and Briefs are relevant and compelling, completely exonerating Appellant from the claims of the Board. Manifest Justice requires a full hearing of the merits of the case- which is also the stated goal of the Administrtive Procedure Act. The Court of Appeals in its footnote 38 on page30 of Engineering Mangement Services Inc v Maryland State Highway Administration No 71 September Term 2002 pages 30-31 point in passing that the discretion exercised in COMAR 21.10.04.02(B) (in the quoted case) [similar to the discretion exercised in COMAR 10.32.02.03(E)(4) in this case] additionally would be subject to review under the "arbitrary or capricious" standard of the APA Section 10-222(h)(3)(vi)

Appellant also reports that the State's Psychologist report, though already impeached by Additional Evidence Christian Psychologist and Christian Psychiatrist Expert Reports that Appellant had produced, was conducted under an adversorial abusive process that did not meet standards of professional conduct. Moreover the Board has no statutory authority to compell an unimpaired physician to submit to Psychiatric and Psychological Testing and the Board operated outside its enabling Statutes Maryland Health Occupation Code Ann Section 14-402 and Section 14-401(e) and COMAR 10.32.01.06.(E)(1)(e) for an "Appropriate Examination" relevant only to the impaired physician licensee with a definite past psychiatric history or drug abuse or abnormality uncovered by the preliminary investigation and a diagnosis requiring rehabilitation and participation in a Rehabilitation Program. Subtitle 4 defines this "Appropriate Examination" under Disciplinary Actions. The Board's first action in Appellant's case was to conduct "Appropriate Examination" presuming "Impairment" of function without "its mandatory Preliminary Investigation" because of the use of Healing Prayers in the Practice of Medicine.

Appellant further petitions this Court that the use of this "Appropriate Examination" outside of indication was disciplinary in nature and thus

unlawful. Disciplinary Action for Christian Belief and Practice unconstitutionally invades my freedom of belief and religion guaranteed by the First Amendment and protected by the Fourteenth Amendment

As the Court has pointed out in the above case Eng v. MD State page 25 the APA Section 10-222(h) sets forth six grounds upon which a court may reverse or modify an agency decision: if any substantial right of a petitioner has been prejudiced, among which are any finding, conclusion, or decision which results from an unlawful procedure and any finding, conclusion or decision which is affected by any other error of law.

Petitioner Appellant further petitions that this unlawful procedure and the results from it be modified according to SGATitle 10 Section 10-222 (f): (1), (2), and (3) and (4) with stay of Board decision of Medical License Suspension or Revocation by the Board of Physicians

Appellant further petitions that all Additional Evidence as provided by Appellant be taken by Board and acted upon according to SGA Title 10-222 (f) (2, (3), and (4)

Petitioner also petitions for a stay on the issuance, enforcement or execution of the mandate of the Court of Special Appeals

Petitioner also petitions that the Court of Appeals may also elect to hear the full merits of this case on the submitted Briefs and Reply Brief through the

Court of Special or other appropriate combination of its Petition for Writ Disposition according to Rule 8-303(E) (f)

Respectfully Submitted

Dr Clement Momah

Petitioner/Appellant Pro Se

RULE 8-303 subsection (b) DOCUMENTS

COPY OF DOCKET ENTRY EVIDENCING THE JUDGMENT OF THE CIRCUIT COURT

OPINION OF THE CIRCUIT COURT

Decision of Board (BPQA) is hereby affirmed

WRITTEN ORDER ISSUED UNDER RULE 2-602(b)

Written Order of Judge Hammerman not available as no signed written order submitted to Clerk of Circuit Court by Judge Hammerman

PROPOSED OPINION OF THE ADMINISTRATIVE LAW JUDGE

Proposed Medical License Suspension and Revocation

DECISION OF THE STATE BOARD OF PHYSICIANS

Medical License Suspension and Revocation

OPINION OF THE COURT OF SPECIAL APPEALS
Case dismissed for nonpayment of Filing Fees
Dismissed on Motion for Reconsideration with affirmation of Indigency
Mandate Recalled on further Review
Case Dismissed for "No further Reconsideration by same Motioning Party"

CLEMENT I MOMAH MD
1435 10TH ST
LANHAM MD 20706

PETITIONER/APPELLANT

VERSUS

STATE BOARD OF PHYSICIANS
4201 PATTERSON AVENUE
BALTIMORE MD 21215

RESPONDENT/APPELLEE

IN THE COURT OF APPEALS
AT ANNAPOLIS MD

ADDENDUM SUPPLEMENT TO PETITION FOR WRIT OF CERTIORARI

Date: October 10th, 2005

REGIUS Professor of Oxford Sir William Osler in his article "the Evolution of Modern Medicine" confirmed the development of many therapeutic modalities from the Practices of various Religions. Many modern authors particularly in the field of Pharmaceuticals and Pharmacology, and no less in modern Psychiatry and Psychology have also confirmed the Historical Derivation of therapeutic agents and Principles from the Practices and principles inherent in Religions. Many of today's procedures of Medicine and Surgery were originally performed in the context of "Religious Service"

and this is the Experience also in Endocrinology Appellant's area of SubSpecialization

A recent author from Mayo Clinic, Rochester MN Forensic Anatomy Dr William D Edwards et al Review Article in the Journal of the American Medical Association (JAMA 1986; March 21st Volume 256 pages 1455-1463: ON THE PHYSICAL DEATH OF JESUS CHRIST) state that "The life and teachings of Jesus of Nazareth, have formed the basis for a major world religion (Christianity), have appreciably influenced the course of human history, and, by virtue of a compassionate attitude towards the sick, also contributed to the development of modern medicine". The teachings and Practice of Jesus of Nazareth (on their own) are thus neither religious nor the World Religion (Christianity)itself, which is based on the Teachings. Developments from "religions" into practice of Medicine and Healing for the primary purpose of Healing specifically does not constitute Religious Indoctrination similar to the feared Hitlerian "Establishment of Religion" and have not been so charged. Infact, that the Benefit of the Principle, Procedure or Process does not constitute religion is supported by Goodnews Club Supreme Court Opinion in Good News Club v. Millersvile School District certiorari to the US Court of Appeals for 2nd Circuit #99-2036 Argued Feb 28th 2001 Decided June 11, 2001 where Justice Stevens

distinguishes between proselytizing and worship and distinguishes each from discussions reflecting a religious point of view

Appellant's adoption of the pragmatic benefits of the Resurrection of Jesus of Nazareth into the Practice of Medicine, by use of Prayers to **"God on His Mercy Seat" The Hilasterion** " and to persuade **"An answer from Him"** based on (1)"the completed 'Once for all Time' **Vicarious Offering** of 'the Innocent Lamb of God' on the Cross"and (2) His 'Spiritual Entry Protocol' to His Throne of Grace does not constitute Religion when these are scientifically documentated by Scientific Methods and Peer Review and thus proven to be scientific true facts. The same principle and scientific process have been followed in the Prayer and Pleadings also to this Court and could hardly be construed as religious. Science seeks to establish facts of Truth with a Certainty : A standard that dissolves doubts.

The Certainty of an Approachable God on a Judgement and Mercy Throne of Grace is not religion but a Scientific Fact. God Himself defines Himself as "The Science" [Etmology Hebrew: "mibtach" Greek Eidesis hence Suneidesis: Conscience: com-science a reasoning flowing together with and a pleading together with (God)] a dissolver of doubts, and a certain performer of His Word. All that, the Legal System which is also described as Scientific it adopts in its discharge of Justice. It is with this Science of

Certainty and Manifestation and Dunamis (the ability to get results) that Messiah-Centered Grace Gift (Christian) Healings are obtained by adoption from His Throne because we know it is His Will to Heal and to be intimately involved in all the affairs of men when they take the limits off of His voluntary limitation according to the will of the Petitioner or Prayerer " analogous in process also to "Patient Informed Consent" Process.

The devil's invasion and devil's Advocates do not self-restrain to the limit of the Will of the Petitoner or Prayerer, and are recognised in their steps outside and beyond boundaries of Self Governance.

This Scientific Process has been involved in all time's history in the building of Nations, and in the Tearing down, in giving of Hope and in Healing-reversing harm and injury. God does not respond to the harm or injury; He responds to "the Citation of the Authority" upon which Relief and Healing is sought, and automatically when the Authority has become One in Union with the Petitioner. The Sacrifices of the Jewish Temple were all "Citations of Authority" based on what God's Messiah has done in Time for all time (see Psalm 65:5) Whosoever is able to draw on this Certainty of Proof of the Godhead in his heart and acts upon it speaking God's Healing Words with Understanding engaging the Scient Mind, Soul and Spirit of God is able to act in Unison with God. And this is the goal for the lessons of Life

situations, once again regaining Uniform Actions of Godly Tender lovingkindness, tenderly Compassionate ("Eusplanchnos"- the normal state of being of the inside) through "Eulabeia" the normal state of Piety and Godly Fear filled with Grace. These are Normal States such as Euthyroid, Deviations from which constitute Endocrine Diseases of Deficiency or Overaction and are healed only in "the Presence of God's Grace"

God is in the business of "Certain Persuasion" by whatever force is necessary, that the recipent desires, until he is convicted (Scientifically persuaded) that He, God Rules by His Heavenly Court's Hilasterion and Protocols of Grace, even if this means destroying a nation or world as one man unit (selling by exchange a nation to the spirit called death) that His Messiah and Himself may be comforted in Grace

This knowledge of God's Grace is necessary to guide all men into actions and the necessary Charity of Attitude towards each other and to God Himself, for He gives us His Life and bears us, is also our Sin-Bearer unless a man by his own choice and force of will chosees to bear his own sin to his detriment and is sold into slavery to death, under the devil's judgment seat and court. The fear of death is thus eliminated from the actions and hearts of men and approach to Life's appointments become normal. carries Vicarious Liability

Vicarious Disqualification

Pre Emptory Evidenc . God's Existence

The PreEmptory Force

The Probative Force

God's Didactic Teaching : Theodidaskalos

The "Hilasterion"

Word used of the Cover of the Ark of the Covenant of the Holy of Holies, which was sprinkled with the blood of the expiatory victim on the annual day of Atonement

Daniel 2:28 tells us that there is a God in heaven that revealeth secrets, and that maketh known to the king Nebuchadnezzar what shall be in the latter days" From Daniel 5:11 -12 we see that..."light, understanding and wisdom of God comes from in-dwelling of the spirit of the Holy God who is a dissolver of doubts" and from Daniel 5:20 "...til he knew that the most High God RULED in the kingdom of men, and that he appointed over it

whomsoever he will".....A God who seeks to show men incontrovertible Proof of His Existence and the Certainty of His Hilasterion

The Hilasterion is what it is because of He who sits upon it- so infact He who sits on this Throne Himself is the Hilasterion

Young translates Romans 3: 23-26

Verse 23: for all did sin, and come short of the Glory of God

Verse 24: being declared righteous freely by His Grace through the Redemption that is in Christ Jesus

Verse 25: whom God did set forth a Mercy Seat, through the faith in His Blood, for the shewing forth of His Righteous, because of the Passing Over of the begone sins in the Forbearance of God

Verse 26: for the shewing forth of His Righteousness in the Present Time, for His being righteous, and declaring him Righteous who is of the Faith of Jesus

The righteousness of whomsoever who comes to God by Jesus is thus Vicarious; and nonetheless still fully effective in obtaining Healing and Righteousness. Because of the Pleadings of this Man - God-Man before the God-Head

That Healings and Gifts of The Spirit of Glory are thus poured forth out of the Hilasterion Throne of Grace (behind the veil of His Flesh) as was the Experience exemplified at the Day of Atonement in the Jewish Temple at the Feast of the In-Gathering

2Cor2:20 For all the Promises of God in Him are yea, and in Him great Amen, (great certainty) unto the Glory of God by us.

Doron Witztum, Eliyahu Rips and Yaov Rosenberg's Article (1994) Equidistant Letter Sequences in the Book of Genesis published in the Statistical Science (1994) Vol 9:No3 429-438 described equidistant letter sequences spelling words with related meanings often appearing in close proximity and the effect of this "The Bible Code" is very significant at the level of 0.000016 to standard and rigorous Peer Review with its uncovering of infinite amount of information about the past and future by a network of words and phrases like a "Computer Program". Professor Rips was invited to present his findings to the Israel National Academy of Sciences (March 1996) and this finding has been accepted internationally though under the same "mobilized passions" by religious scientists with a different worldview

point and an antagonistic philisophy, as Healing Prayers and Divine Healing has also been subject. This Code was highly sought after by Sir Isaac Newton (Essays and Sketches in Biograph: A Biograph of Isaac Newton by John Maynard Keynes) who incidentally gave the discovery of the "Laws of Physics", but required Computers for its discovery.

Albert Einstein stated " The distinction between past, present, and future is only an illusion, however persistent". Time, said Einstein, is not at all what it seems. It does not flow in only one direction, **and the future exists simultaneously with the past** (quoted by Michael Drosin in his book "The Bible Code")

Sir William Ramsay the preeminent archaeologist concluded after 30years of critical sudy of Dr Luke writings: Luke is a historian of the first rank; not merely are his statements of fact trustworthy .....this author should be placed along with the greatest of historians" (Ramsy W. M. The Bearing of recent Discovery on the Trustworthiness of the New Testament, Grand Rapids Baker Book House 1953

William D. Edwards of the Mayo Clinic reports that using the legal-historical method of scientific investigation, scholars have established the reliability and accuracy of the ancient manuscripts of "The New Testament".

Flavius Josephus AD 37-94 Antiquities XVIII iii, 3 documents the historical record of the Resurrection of Jesus Christ; and Rabbi (Attorney) Saul aka Apostle Paul reports eye witness account on the risen Jesus the Christ of over 500 witnesses simultaneously in 1 Corinthians 15.

Dr Luke as a Medical Historian documents the Resurrection in fine medical details and the subsequent Outpouring of the Holy Spirit in His "Gospel according to Luke" and in Acts of (the Holy Spirit and) the Apostles. Dr Luke documents the Holy Spirit as a Person though Divine with a Protocol of Movement to Action in Healing.

Apostle Paul (also called Rabbi Saul) also documented the Spiritual Protocol that must be fulfilled for Grace Healing to manifest from "the Hilasterion" as coming to Jesus for Healing by an Act of One's own Will, a pleading before the Judgment Seat and a Praying to the Godhead on the Throne as a Prayer to the Authority on the Throne or Judgment Seat - the Bema. Based on Vicarious Disqualification of the Devil's Advocacy from before the Judgment Seat of God and a Pleading for Grace Resurrection Healing based on "The Faith of Jesus the Christ" by a Trust and Receiving of the Cure that is already Accomplished - Once throughout and for all Time.

The Hilasterion "the Mercy Seat" is used of the cover of the ark of the covenant of the Holy of Holies, which was sprinkled with the blood of the expiatory sacrifical substitute on the annual day of Atonement
(This rite signifying that the life of the people, the loss of which they had meirted by their sins, was offered to God in the blood as the life oft he substitute sacrifice, and that God by this ceremony or pleading was appeased and their sins and sicknesses expiated- hence the lid of expiation, the propitiatory

in Genesis

Whilst there can be no doubt about the Concerted Actions of certain elements from within MGH: particularly Dr William Anthony, Dr John Manzari, Dr Phillip Phelan and the Office of the Attorney General's Representation of the BPQA, the Faculty of the Board President of the MEDCHI Dr John Manzari, Dr Timothy Keays of IKNH, by thinning out files and fabrication of Reports and Manipulative take-over of the

Administrative Procedural Process of the State Board of Physician, satisfying by the Preponderance of Evidence Standards and the Judicial Requirements for the Judicial Notice of Conspiracy involving also Judge Robert Hammerman's conduct and apparent or alleged suicide,

There also remains unexplained a last minute sudden replacement of Associate Judge Carol E. Smith by Judge Robert Hammerman which makes his suicide rather unresolved, especially given "The Jewish Times Report" on Judge Hammerman's leadership involvement in the Lancers and the Non-Messianic Jewish Community

As an Additional Supplement to Petition for Writ of Certiorari of September 24th, 2005, Dr Clement Momah, Petitioner/Appellant, further respectfully petitions the Court of Appeals for:

(1) Declaratory Judgment on the inclusion of Healing Prayers in Medical Practice according to Patient informed consent practice pursuant to State Governmental Article Title 10 Administrative Procedure Act: Regulation Section 10-125, in the State Board of Physicians approved and adopted Practice of Medicine as recognised in Health Occupation Article Title 14 Section 14-101(l) (1) and (2)

Pursuant to Petitioner's request of Respondent's (State Board of Physicians/BPQA Board of Physiciians Quality Assurance) policy and legal approval on Healing Prayers and its use in the Practice of Medicine, and a consequent petition for adoption of regulation, (APA Regulation Section 10-123) Petitioner responded with letter dated January 27, 1999 Record Extract (E003) which failed to comply with the only two responses of Section 10-123(b):

(b) Response by unit: Within 60 days after the petition is submitted, the unit shall:

(1) in writing, deny the petition and state the reasons for the denial or

(2) initiate the procedures for the adoption of the regulation

The Board neither denied nor did it initiate Regulation procedures for the adoption of Healing Prayers as part of practice of Medicine as it was required and mandated to do by this Regulation and by Rule 1-201.

Petitioner notes that the Scope of the Health Occupation Article Title 14 as in Section 14-102 also does not limit the right of (2) a Christian Science practitioner, who is accredited by the First Church of Christ, Scientist, in Boston, Massachusetts, from

(i) dealing with human ills in accordance with the tenets of Christian Science, and

(ii) Charging for services

Health Occupation Article Title 9 Section 9-307 provides limited license that permits the licensee to practice as a nursing home administrator only in a certified institution (for Administrators of certain church institutions)

Section 9-307 (a) "Certified institution defined- In this section, certified institution" means an institution that:

(1) Cares for and treats the sick in accordance with the teachings of any recognized church or religious denomination that teaches reliance on spiritual means through prayer alone for healing and

(2) Is certified by that church or religious denomination to provide thic care and treatment

Section 9-307(c) Applicant qualification- An Applicant qualifies for a limited license only if a recognised church or religious denomination that teaches reliance on spiritual means through prayer alone for healing approves the applicant as qualified to administer certified institutions

Section 9-307(d) Partial exemption- As a qualification for a limited license, the Board may not require the applicant to demonstrate proficiency in any medical technique or to meet any medical educational qualification or other medical standard that is not in accord with the remedial care and treatment provided in a certified institution.

Furthermore, Health Occupation ArticleTitle 14 already permits the use of prayers by members of the clergy who are also members of the State Board of Professional Counsellors and Therapists in dealing with addiction by AAA(AlcoholAnonymous) other Twelve Step Plans and Prayer, and other patient problems which also fall within the scope of Medicine Practice and are documented in the Evidence of Appellant/Petitioner by Handbook of Religion and Mental Health edited by Professor Harold Koenig (pages 175-196) entered into the records at the Administrative Hearings

The State Board has not confirmed its present legal policy concerning the Healing Prayers of Clergy and Ministers and Hospital Chaplins being Practice of Medicine, although the prevailing State Cousel arguments against the Practice of Healing Prayers of Healing Evangelists and Ministers over the last 50years and over the majority of states has been that "Healing Prayers is the practice of Medicine" and requires a License

Petitioner further notes the adoption of Acupuncture by Regulation in Title 14 Section 14-101 (l) (2)(iii) and a State Board of Acupuncture; although the Scientific Evidence for the Efficacy of Acupuncture by published Outcome Studies do not approach the results of Healing Prayers, as have been presented.

Thus the State already has accepted the practice of Healing Prayers in several facets of Public Life and thus has no continuing interest or concerns regarding the Establishment Clause in denying the People of Maryland the benefits of including Healing Prayers in the Practice of Medicine as per patients informed consent practice as Petitioner had done in his practice without loss of Standards of Practice or Medical Care. Moreso as the results of Prayers to God with Patients are as good as many Medical Interventions particularly unsurpassed in restoring Comfort, Wellness and Strength of Being, and may surpass many medical therepies as it is further developed, researched, proved and believed and further understood; some reviewers already suggest medical negligence in light of the evidence, for failing to present the option to patients as an additional treatment modality and as complement and supplement in Medical Practice. The standards of a "medical break-through" have already been exceeded - Dr Larry Dossey.

The National Academy of Scienc's Institute of Medicine's Board on Population Health and Public Health Practice (formerly Board on Health Promotion and Disease Prevention HPDP) on Jan 12, 2005, published Treatment Effectiveness confirmed by Peer Review and Safety as the crucial standards for acceptance of Healing Modalities. Thus the State of Maryland

has no interest in not establishing Healing Prayer in the Practice of Medicine.

The Frye test concerning the admissibility of novel scientific evidence at trial originates from the 1923 decision of the Court of Appeals for the District of Columbia which declared:

> "Just when a scientific principle or discovery crosses the line between the experimental and demonstrable stages is difficult to define.Somewhere in this twilight zone, the evidential force of the principle must be recognised, and whilew courts will go a long way in admitting expert testimony deduced from a well-recognised scientific principle or discovery, the thing from which the deduction is made must be sufficiently established to have gained general acceptance in the particular field in which it belongs" 54App. D.C., at 47, 293F., at 1014

Under the Frye/Reed standard of admissibility, adopted by the Court of Appeals of Maryland, a court determines that a scientific process or technique is generally accepted within the relevant scientific community (Hutton v. State, 339 Md 480, 663. A.2d 1289 (1995). Reed v. State, 283 Md. 374 (1978) adopting Frye v. United States, 293 F. 1013 (D.C. Cir.

1923). The required scientific foundation for the admission of novel scientific techniques or principles is left to development through case law Maryland Rule 5-702 Committee note. (Daubert v. Merrell Dow Pharmaceuticals, Inc --US--, 113 S Ct, 2786 (1993). In Daubert the Supreme Court confirmed " we interpret the legislatively enacted Federal Rules of Evidence as we would any other Statute.(Beech Aircraft Corp. V. Rainey, 488US 153, 163 (1988) Fed Rule 402 provides the baseline:

"All relevant evidence is admissible, except as otherwise provided by the Constitution of the United States, by Act of Congress, by these rules, or by other rules[509 US 579,7] prescribed by the Supreme Court pursuant to statutory authority. Evidence which is not relevant is not admissible."

"Relevant evidence" is defined as that which has any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less propable than it would be without the evidence" Rule 401"

The Federal Rules of Evidence, not Frye, provide the standard for admitting expert scientific testimony in a federal trial

(a)Frye's general acceptance test was superseded by the Rules' adoption. The Court noted that " the Rules occupy the field…the common law nevertheless could serve as an aid to their application.

"In principle, under the Federal Rules, no common law of evidence remains. All relevant evidence is admissible, except as otherwise provided..."In reality, of course, the body of common law knowledge continues to exist, through in the somewhat altered form of a source of guidance in the exercise of delegated powers"

Nothing in the Rules as a whole or in the test and drafting history of Rule 702, which specifically governs expert testimony, gives any indication that "general acceptance" is a necessary precondition to the admissibility of scientific evidence.

(b)The Rules- especially Rule 702- place appropriate limits on the admissibility of purportedly scientific evidence by assigning the task of ensuring that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand. The reliability standard is established by Rule 702's requirement that an expert's testimony pertain to "scientific knowledge" since the adjective "scientific" implies a grounding in science's methods and procedures, while the word "knowledge"connotes a body of known facts or ideas inferred from such facts or accepted as true on good grounds. The Rule's requirement that the testimony "assist the trier of fact to understand the evidence or to determine a fact in issue" goes primarily to

relevance by demanding a valid scientific connection to the pertinent inguiry as a precondition to admissibility

(c)Faced with a proffer of expert scientific testimony under Rule 702, the trial Judge, pursuant to Rule 104(a), must make a preliminary assessment of whether the testimony's underlying reasoning or methodology is scientifically valid and properly can be applied to the facts at issue. Many considerations will bear on the inquiry, including whether the theory or technique in question can be (and has been) tested, whether it has been subjected to peer review and publication. Its known or potential error rate and the existence and maintenance of standards controlling its operation, and whether it has attracted widespread acceptance within a relevant scientific community. The inquiry is a flexible one, and its focus must be solely on principles and methodology, not on the conclusions that they generate. Throughout, the judge should also be mindful of other applicable Rules

(d) Cross-examination, presentation of contrary evidence, and careful instruction on the burden of proof, rather than wholesale exclusion under an uncompromising "general acceptance" standard. Is the appropriate means by which evidence based on valid principles may be challenged."

The Degree of acceptance by scientific community is one factor to be used by the Court in assessing reliability of evidence (United States v. Gould, 741

F.2d 45 (4th Cir. 1984); this requires that the scientific principle or process in question be shown to have gained "substantial acceptance" as opposed to "general acceptance" within the relevant scientific community. This test would be met if significant numbers of scientists- especially those who are highly specialised in the field in question- affirm the validity of the principle or process in question. In recent years as highly developed specialties have burgeoned, it is sufficient in many jurisdictions if experts in the particular narrow field of endeavor would accord validity to the scientific basis of the evidence (Graham C. Lilly An Introduction to the Law of Evidence 2nd Edition (1987) page504 quoting Commonwealth v. Lykus, 367 Mass. 191, 327 N.E.2d 671 (1975). The admitted evidence "can be given either of two distinct effects: It could be considered conclusive as to the proposition to which it is directed or it could be given only such probative effect as the trier deems appropriate. The important factor in determining whether the evidence should be conclusive is the extent to which those in the field accept as irrefutable the scientific conclusion in question. " See also Maryland Rules Evidence Rule 5-702 (derived from Fed R 702): In making the determination, the court shall determine (1) whether the witness is qualified as an expert by knowledge, skill, experience, training or education, **(2) the**

appropriateness of the expert testimony on the particular subject, and (3) whether a sufficient factual basis exists to support the expert testimony.

As Petitioner's Brief (page 16) identifies Regius Professor of Oxford University and foundation Professor of Internal Medicine Johns Hopkins Hospital, Sir Dr William Osler's publication of "The Faith that heals" published 1910 (E650) confirming his documentation of "otherwise inexplicable divine healings". It is also a matter of historical record that Florence Nightingale employed healing prayers extensively as a Nurse in the Crimean war. Sir William Osler's Review of the Evolution of Medicine presented to Yale University Lilliam Lectures confirm " no doubt about the mandate (and authenticity) of the Healing Practice of Jesus of Nazareth" and many physicians over last 2 thousand years who have practised the Healing Acts in the Practice of Medicine.

The statement of the British Association of Science: On the Ultimate Harmony of Scripture and Natural Science presented in (Reply Brief page 25) proves the accepted belief in God by the majority of Scientists. Albert Einstein stated "God does not play dice" attributing his understandings of Relativity and Space Time to 19 visions and revelations from God. Record

Extract E160-185 provided more recent confirmation of 99% of 296 Physicians surveyed at a 1996 meeting of the American Academy of Family Physicians said religious beliefs can heal, while 75% said that others' prayers can promote healing.

Nancy Waring of the (medically prestigious) New England Journal of Medicine Journal Watch - Massachusetts Medical Society (Hippocrates 2000 (14) 8 August 8, 2000) and Walter L Larimore American Family Physician 2001Record Extract (E162) report "Nearly half (60 of 126) of America's allopathic medical schools now provide training in addressing faith and spiritual issues with patients" (and this includes Johns Hopkins Hospital of Baltimore, Maryland.) Oslerian tradition remains highly revered within the Practice of Medicine.

Walter Larimore (E162)further reports Time/CNN Poll reveal that 64% of patients thought that Physicians should join with them in prayer and nearly 80% of Americans believe in the Power of God. Numerous publications in Newsweek October 2003, US Newsreport and Times on Prayer in Medical Practice satisfy Judicial Notice of the General Standard of acceptance among the People and Physicians. Dr David Eisenberg, MD reported 35% of

physicians had used prayer for health-related problems that year. Spiritual Training and the value of Prayers are now mandatory training in Family Practice Residency training (Accredited Council for Graduate Medical Education, ACGME Chicago) and similar Curriculum is now incorporated into Psychiatry Residency Program (Larson DB National Institute for Healthcare Research, Rockville MD). Dr Atwood Gaines documented the corporate character of Christian Psychiatry dating fom 1982 in the Handbook of Religion and Mental Health edited by Professor Harold G Koenig of Duke University. Pages 291-320.

The Federation of State Medical Boards through the Institue of Medicine recently published by a Committee of prestigious and distingiushed medical leaders of the leading Universities Recommendations in January 12 th 2005 set Common Research Standards and Evidence:

The Committee recommends that the same principles and standards of evidence of treatment effectiveness apply to all treatments, whether currently labeled as Conventional Medicine or Complementary and Alternative Medicine CAM. Implementiong this recommendation requires that investigators use and develop as necessary common

methods., measures, and standards for the generation and interpretation of evidence neccessary for making decisions about the use of CAM and Conventional therapies.

The force of the Recommendations of the IOM is grounded in the seasoned expertise of proven Medical Researchers and Clinicians. Amongst the National Academy of Sciences IOM Committee are many notable Medical Scholars and Physicians (IOM Report Appendix Biograhic sketches 319-) a few are pertinent in Petitioner's training and fields of Endocrinology, Internal Medicine, and Physiology and Obstetrics and Gynecology

Page 320: Gerard N Burrow, MD Dean Emeritus of the Yale University School of Medicine, also David Paige Professor of Medicine and Professor of Obstetrics and Gynecology at Yale, who like Petitioner is an Internist and an endocrinologist

Page 322: Alfred P. Fishman, MD William Maul Measey Professor of Medicine and Senior Associate Dean for Program Development at the Universith of Pennsylvania School of Medicine formerly President of the American Physiological Society (Petitioner's initial training in Medicine)

Page 322: David M. Eisenberg, MD the Oscher Institute at Harvard Medical School and the Division for Research and Education in Complementary and

Integrative Medical Therapies. Medical Advisor to the PBS Series, "Healing and the Mind" with Bill Moyers.

Page 319 Stuart Bondurant, M D (Chair) Executive Vice President and Executive Dean of Georgetown University Medical Center, formerly Professor of Medicine and Dean Emeritus at the University of North Carolina School of Medicine

The Study of Cardiologist Randolph Byrd in his 1988 Study of 393 patients in San Francisco General Hospital's CCU confirmed a scientific basis for testing the effect of prayers by a group of born-again Christians: prayed-for patients were less prone to congestive heart failure, cardiac arrest, endotrachael intubation and mechanical ventilation, and fewer of them needed diuretics and antibiotics than control-group patients. (Byrd RC: Positive therapeutic effects of intercessory prayer in a coronary care unit population. South Med Journal 1988, 81:826-9)

Psychiatrist Dr Elisabeth Targ's study of HIV patients "sets a gold standard" at the Complementary Medicine Research Institute at California Pacific

Medical Center in San Francisco on the effect of distant prayer on patients with advanced AIDS: twenty of the 40patients were prayed for- six days a week for ten weeks and after six months the prayed for patients had significantly fewer new AIDS-defining illnesses. "The results were not a matter of hopefulness since half of the patients in the treatment group thought they were in the control group".(Sicher F et al : A randomized, controlled trial of the effects of distant healing in a population with advanced AIDS. Report of a small scale study West Journal of Medicine 1998; 189:356-63)

The University of Maryland has also now developed its Complementary Medicine Program under assistant professor John Astin, PhD (Astin JA et al The Efficacy of "distant Healing": a systematic review of randomized trials Annals of Internal Medicine 2000; 132: 903-10)

Professor Herbert Benson of Greater Baltimore Medical Center, Baltimore Maryland is coordinating a nation wide Harvard-centered Study on Mind-Body healing

Dr Larry Dossey, author of Healing Words: The Power of Prayer and the Practice of Medicine (1993) chaired the National Institute for Healthcare Research Center and with Dr Dale Matthews published extensive reviews of the Faith Factor... Dr Larry Dossey's work prompted (as in Petitioner's

personal experience) of a patient with Xrays documented Complete Healing secondary to Prayers, is continuing His Work and Investigations at the Noetic Institute in Dallas, TX.

Dr Dale Matthews "The Faith Factor" publication for laypersons easy reading is entered as evidence and confirms the practice at Gerogetown University Hospital of Prayers complements in the Practice of Medicine by licensed Physicians

Professor William Wilson's 50 years of clinical experience at Duke University Medical Center and in many different mental health settings, most in "the Third World" confirm by his article in Handbook of Religion and Mental Health page 161-173 that religious beliefs influence psychotic illness, that possession syndromes are real and Spiritual Interventions are frequently effective in Deliverance, in alleviating human suffering.

Numerous medical reviews now embrace Spirituality and use of Prayer in Health care including Primary Care Residency Programs (Pulchalski CM Larson DB Developing Curricula in Spirituality and Medicine Acad Med 1998; 73: 970-4) . The Federation of State Medical Boards includes "Healing" as a form of Complementary Healing as reported already by the State Board of Physicians letter Record Extract(E003) ·

These demonstrate that truly "Life and Death are in the power of (the tongue) Healing Words" and Healing Words do encourage and bring forth life

SGA Section 10-123 precludes the Board's failure to act, or have no binding legal policy on Healing Prayers in the Practice of Medicine.

SGA Section 10-124 Regulation Evaluation of Impact provides in Section 10-124(b)(2)(i) the unit (the Board) shall:

(i) on the basis of the sizes of the businesses that the proposed regulation might affect, divide these businesses into any classes that the unit considers appropriate for the proposed regulation; and

(c) Action after Evaluation: On the basis of the evaluation, the unit may adopt 1 or more regulations that apply differently to classes of businesses

Moreover Maryland Constitution Article 36 on Religious Freedom provides " That as it is the duty of every man to worship God in such manner as he thinks most acceptable to Him, all persons are equally entitled to protection in their religious liberty....

Nothing shall prohibit or require the making reference to belief in, reliance upon or invoking the aid of God, or a Supreme Being in any governmental or public document, proceeding, activity, ceremony, school, institution, or place.

Nothing in this Article shall constitute an establishment of religion" (1970 ch 558 ratified Nov 3, 1970)

Article 6 Maryland Constitution further provides "Legislators and Executive Officers are Trustees of the Public; the right of people to reform or establish new government":

"That all persons invested with the Legislative or Executive Powers of Government are the Trustees of the Public, and, are as such, accountable for their conduct. Wherefore, whenever the ends of Government are perverted, and public liberty manifestly endangered and all other means of redress are ineffectual, the People may,, and of right ought, to reform the old or establish a new Government, the doctrine of non-resistance against arbitrary power and oppression is absurd, slavish and destructive of the good and happiness of mankind.

Thus Declaratory Judgment for the use of Healing Prayers in the Practice of Medicine is for the benefit of the People of Maryland, and can thus, as noted above, be structured specific for "classes of businesses" receptive to it,

as per Patient informed Consent Practice, without fear of offence to any particular group; but with the proving of Outcome Measures of Efficacy directing Application, Appropriation and further Research into Engagement of a Healing Supernatural God.

In 1980, Central Hudson Gas & Electric v Public Services, the Supreme Court 447 US 557:1980 Justice Powell offered an overview a four part analysis of the Court's position on "Commercial Speech" helpful in determination of "boundaries of professional practice"

1.whether the expression is protected by the First Amendment

2 concern lawful activity, not be misleading

3.whether the asserted governmental issue interest is substantial

4.whether the regulation directly advances the governmental interest asserted and whether it is not more extensive than is necessary to secure that interest

It is evident that Healing Prayers fulfils all above considerations and are lawful activity fulfilling Freedom of Religion Rights for which also, the Supreme Court maintains judicial alertness toward legislative requirements that penalise an individual for his religious beliefs or his secular attitude. A neutral use of state governmental power is demanded, without prohibition or establishment. Certainly a religious practice that seeks to establish Satanic

activity contrariwise to the Constitution and to the ill of the People of the US is unlawful. The Governmental Interest is governed by the activity being lawful and not be misleading, ……the Court found that the New York Regulation failed on the fourth part of the standard: The Commission has not shown that its interests cannot be protected adequately by **more limited regulation** ….. in the absence of a showing that more limited speech regulation would be ineffective, we cannot approve the complete suppression of Central Hudson advertsing" Justice Stevens more directly: The justification for the regulation is nothing more than the expressed fear that the audience may find the (utility's) message persuasive. ….Without the aid of coercion, deception or misinformation, truthful communication may persuade.." Where the consequence would be undesirable, the government may therefore prohibit and punish the unnecessary or excessive….But if the perceived harm associated is not serious to justify direct regulation, surely it does not constitute the kind of clear and present danger that can justify the suppression of speech". This Court has also confirmed (State of Maryland v Brookins et al No 19 September 2003 Term filed March 16, 2004 page 33) "The very purpose for the First Amendment is to foreclose public authority assuming a guardianship of the public mind…in this field every person must

be his own watchman for truth, because the forefathers did not trust any government to separate the true from the false for us."

SGA Section 10-101(l) "Regulation" means a statement or an amendment or repeal of a statement that: i.Has general application;ii.Has future effect; iii.Is adopted by a unit to:

1,detail or carry out a law that the unit administers; 2.govern organization of the unit; 3. govern the procedure of the unit, or 4.govern practice before the unit; and

(iv) is in any form, including: 1.a guideline; 2.a rule; 3.a standard; 4.a statement of interpretation; or 5.a statement of policy.

(2) "Regulation" does not include:

(i) a statement that:

1. concerns only internal management of the unit; and

2. does not affect directly the rights of the public or the procedures available to the public

(ii) a response of the unit to a petition for adoption of a regulation, under Section 10-123 of this subtitle; or

(iii) a declaratory ruling of the unit as to a regulation, order, or statute, under Subtitle 3 of this title

(3) "Regulation", as used in Section 10-110 and 10-111 of this subtitle, means all or any portion of a regulation.

The future effect of Regulation requires that it be enacted to anticipate the needs and classes of business each unit has dealings with in furtherance of the Benefit of the People of the State.

The choice of which path to follow is left to the will of the patient according to their experience of Healing as a choice of Physician is directed by the Outcome measures of the Physician's Performance. It is certain that the True Great Physician will manifest Himself to make Himself known as the Life-giver, not simply the combating of death and its processes, but (beyond the turning point of Covenant Pleadings) the Giving of Life.

The very dramatic Videotape Resurrection of a man dead 4 days from Road Traffic Accident, embalmed in formalin and confirmed dead by 3 doctors, being raised back to normal life as a Preaching Pastor with a Message for this generation, during Evangelist Reinhardt Bonnkee's Crusade in Onitsha, Nigeria, completely by the Will of the Holy Spirit alone, and without the prior awareness or will of Minister Reinhardt, further confirms God's Will for this generation of Resurrection. This has also been presented into

evidence. This is of greater True Science import than the discovery of Cardiac Resuscitation, or Hormones though the Principle is the same, physiologically speaking. This single Evidence by its very nature is Conclusive - Compellingly Conclusive and irrefutable as to the Scientific Conclusion in question: which is that God has the Power to Give Life and that the Giving of this Life by His Holy Spirit has the Authority over all matter to Transform back to life. This is a Teaching/Doctrine that present day Science had not hitherto explored adequately. True Doctors must follow Doctrines of Truth. As the first successful case of Cardiac Resuscitation established the Procedure medically, so does this true Resurrection on authenticated and documented Videotape establishes the present day frontiers of Medical Practice.

Judicial Notice of the Scientific Methodology, Principles and Application of Healing Prayers is Appropriate. The Experts in this particular narrow field of endeavour all accord validity to the scientific basis of the evidence and National Conferences among Physicians in US for educating, imparting to other phyusicians and activating their dormant capabilities are already being conducted(Dr Walter Larimore). The Outcome Measures have been proven subject to Scientific testing, documentation, Peer Review Testing and Publication. More importantly the effectual application to alleviate

sufferings of patients, many whose illnesses are incurable by previous scientific knowledge, can now have hope of cure. The existence and maintenance of standards are also proposed through a State Board of Healing Prayers/State Board of Grace Healing (similar to the State Board of Physicians interaction with the State Board of Acupuncture). The Board of Acupuncture operates on "BioEnergy Fields" in its patients. Healing Prayers operate through the Creative Holy Spirit of the Universe to receive Spiritual Life into the Spirit and Soul of man. Holy Spirit Baptism and Overflow of this Spiritual Life transforms the Spirit and Soul as Thyroid hormones awakens a myxedematous patient (who is frequently without self-awareness or consciousness of his own narcosis) from this death-dealing stupor. It is no surprise therefore that many moribound patients by the recommendations of physicians without this training in Grace Healing Principles are completely transformed and turned back from death to fruitfulness in life. Cancers, Psychosis, Schizophrenias, Non-Union Limb Fractures,... seemingly impossible by a non-believing and unknowledgeable mind are all subject to transformation, by a Process that has been described by Fractal Geometry- the Principle used in Telescopes to transform blurred images into full resolutions of the originals. Spiritual Transformation restores God's Original Blueprint for the persons life by contract-covenants of the

Physician-Patient Transaction relationship requiring Loving acceptance by the Wills of both parties. Handbook of Religion and Mental Health identifies that this process of spiritual help is sought after through various religious pursuits as described by Physicians and Psychiatrists familiar to these religious pursuits. As a Scientist: a Physiologist, an Endocrinologist, Internal Medicine Specialist and also one trained in Obstetrics and Gynecology, I can also state Spiritual Transformation, Resurrection Power and Healing are true Science. There are not dependent on man's efforts, ways and ideas of finding God and his Transcendental Power which is what Religion is defined.

Resurrection, Spiritual Transformation, Resurrection Healing, Grace Healing is an engagement by God through His Holy Spirit through the Scientific Creative Process by which the Cosmos was created and recreated from chaos. This has nothing to do with man except Yielding of one's will as in every Physician-Patient interaction for Healing

Applying the flexible inquiry standard of Daubert Supreme Court with a focus that must be solely on the principles and methodology, this Court conclusion, respectfully prayed, must be to grant Declaratory Judgment in support of Healing Prayers

No other physician need be exposed, ridiculed or made subject to the arbitrary and capricious procedural conduct that has been followed by the State Board decision-makers acting in concert with Medical Administrators of Maryland General Hospital (not only with Dr John Manzari, who was President of MEDCHI, the Faculty of the State Board of Physicians; and coincidentally also the then Vice-President of index hospital Maryland General Hospital) without authenticating allegations from these medical administrators. The testimony of the Secretary of the Maryland Department of Health and Mental Hygiene before the United States Congressional Investigative Committee dated May 18th and July 7th 2004 (Reply Brief Appendix) confirms the danger posed to the Public and people of Maryland collectively as a unit and individual Physicians/hospital workers of Unsupervised Medical Administrators acting unethically and without Restraint, of Fabricating False Reports; and of the (under-estimate) of 100, 000 "medical mistakes" per year through the United States medical centers. It is "Regulatory System Breakdown" when the Regulating Authority State Board of Physicians deems its role of Authenticating Allegations against Physicians to "Medical Adminstrators" who by Regulation are to operate under subjection to Government; or as Secretary Nelson Sabatini (appendix

to Reply Brief) stated when "those with Regulatory Oversight Responsibility over Maryland General Hospital have "uncomfortably too close ties with the Industry they survey", the System fails to function; as was illustrated in Dr Tim Keays letter to the BPQA (E039); and enboldened Dr Keays of Irvington Knolls Nursing Home and Dr John Manzari of Maryland General Hospital to act outside Regulatory Authority and fabricate false reports.

It is also true that 35% of Physician families have sustained medical mistakes from other physician/Hospitals leading to death, so the problem is not a conspiracy of physicians against the rest of Society. The Physicians themselves end up being victims of "the System" withoutEquilibrium and Balance. God's Answer to Prayers changes the atmosphere, even as the medical administrators at Maryland General Hospital finally had to admit, and changes the Conduct and "Ethics" of the participants in the Physician-Patient Transaction covenant-contract, and is absolutely necessary. This Effectual Method of Comfort and Healing to the people of Maryland, may not be denied them by the Office of the Attorney General of Maryland employing the State Board of Physicians, and the Administrative Procedure Act against an interest of the the People of Maryland, and at least a "class of businesses" people who desire and need "Healing Prayers" in the

interactions with their Physicians. Whilst the Board's states concerns about Physicians enforcing Prayer (which is not possible, Prayers being foundationally personal Communication with God), Prayers with Physicians and at Physician Prescriptions may not be denied to those for whom it is a matter of Life and Death; and the published Outcome Results confirm frequently this is the case.

Various Methods of "healing" having origins in various religions and philosophy schools: Secular Humanism, Ethics Culture, Eastern Religions, including Psychiatry and Psychology deriving its origin from Dr Sigmund Freud in "Postmodernism and Atheism" and Freud's publications of "the death of an illusion of "belief in God"; and Carl Jung's investigation of Psychic Phenomena and Wicca, are already in use in Medical Practice in the United States, as presented by Oxford Regius Professor William Osler's "The Evolution of Medicine" and these are described by the Supreme Court as "Religions" in Torcaso v Watkins, 367 U.S. 488 (1961) [Footnote 11] as among religions in this country which do not teach ….. a belief in the existence of God". It is notable that the State of Maryland Office of Attorney position in Torcaso v. Watkins was on the position of the State's acknowledgement of the Existence of God. The doctrine of Judicial

Estoppel, Collateral Estoppel, Equitable Estoppel deny the State a change of position.

There is no separation of God and State in the Constitution, despite the argument by some that there is separation of Church and State in the Constitution. Every Nation is under Almighty God's Government regardless of their acknowledgement of this or lack of it. All peoples are governed under God's Authority whether in the State or in the Church; and the same Principles of Government, Wise covenantal Judgment and Godly Counsel, Faith, Compassion, Mercy and Grace are demanded for each step of the transaction.The Evidence and the Arguments for Unrestricted Access of the People of the State to the Healing Prayers of the (Physician) Authority in their Healing transaction with God, is thus seen to be Compellingly Conclusive.

Even moreso, for Physicians' Health to be maintained by Healing Prayers as Physicians Mortality rates far exceed the general population and the patients for whom they seek to prolong days of life, with life expectancy being 10 to 15years shorter. The very nature of being an federal Authority in God's Government is having to bear the "weaknesses" and "infirmities" of those under your covenantal authority(Romans 13:1). Only tragic results

generally occur when Physicians (and others in the "HaElohim" Offices) fail to pray and "cast the burdens unto the LORD" our Burden-Bearer.

Thus this Court would be deciding for the Physicians as well for the patients and People of Maryland by adopting through a Declaratory Judgment: Healing Prayers and God Answered Prayers in the Practice Medicine. It will also assist the Executive Branch of the State of Maryland in being accountable and responsive to the public interest. By failing to regulate according to its Statutes and Regulations, the State Board of Physicians failed to provide for orderly conduct for physicians under its authority in the issues concerning Healing Prayers, and failed to provide for equal protection physicians and patients as well as other Healthcare workers in their religious liberty.

The Supreme Court in Mapp v Ohio 367 Us 643, 81 S Ct 1684, 6 L. Ed. 2d 1081 (1961) quoting Wolf v Colorado 338 US 25 stated that the Fouth Amendment's Right of Privacy has been declared enforceable against the States through the Due Process Clause of the Fourteenth, it is enforceable against them by the same sanction of exclusion as is used against the Federal Government. Hence Wolf's constitutional documentation of the right to privacy free from unreasonable state intrusion, and all evidence secured by official lawlessness in flagrant abuse of that basic right, reserved to all

persons as a specific guarantee against that very same unlawful conduct. The Supreme Court therefore holds that all evidence obtained by searches and seizures in violation of the Constitution is, by that same authority, inadmissible in a state court.

The Court confirmed that many states as California now following the Wolf exclusionary rule were "ompelled to reach that conclusion because other remedies have completely failed to secure compliance with the constitutional provisions" despite Wolf's recognition of "other means of protection" have been afforded "the right to privacy" 338US at 30.

(2) Declaratory Judgment on Invalidity of "Appropriate Examination" of Appellant with "Medical Practice with complementary Healing Prayers" by Coercive Compulsion by State Board of Physicians' denying 'examination' by Christian Psychiatrist and Psychologist whilst demanding Secular Psychiatrist and Psychologist belonging to a different "Religious class" with Different Worldviewpoints

Pursuant to Section 14-402

The State Government is obligated to Neutrality in matters respecting the Establishment Clause of the First Amendment of the US Constitution, neither hindering and ensuring Freedom of Religion and Due Process Rights guaranteed by the Fourteenth Amendment and from the 4th and 5th Amendments

By demanding examination by members of an hostile religion group involved in concerted actions conspiratory against (Christian) Healing Prayer in Medical Practice, the Board exposed Appellant unnecessarily to injurious Slander, and Religious injury, and an unduely injurious report emanent from the "appropriate examination" that the State Board published publicly on its website and to other State Boards. The subsequent reversals of medical opinions, diagnosis and prognosis made without judicious Restraint and without knowledge of Christian Cultural Sensitivity to surpport this report of religious bias, and without the balance of defining the reporting's limitations that resulted in Suspension and Revocation of Appellant's Medical License. Such antagonism had clearly been a practice long ignored and tolerated by the less informed, who still, despite their ignorance, are deserving of equal protection under the law by the State. Illusion Psychiatrists ought to make those conclusions only on those who know no better: Illusion subjects.

Dr Dan Blazer of Duke university stated this "a priori" hostility succintly: page 383 Article: "Religion and Academia" Handbook of Religion and Mental Health edited by Harold Koenig: " The post-modern has moved beyond such self-deceit and openly attempts to persuade and control. Therefore one might expect clashes between those who support empirical study of religion and those driven by the postmodern impulse, but the clash will not center on the validity of the methods of study …."

Further the Supreme Court in Mapp v Ohio 367 Us 643, 81 S Ct 1684, 6 L. Ed. 2d 1081 (1961) has confirmed it has not hesitated to enforce as strictly against the State as it does against the Federal Government the rights of fee speech, and of a free press, the rights to notice and to a fair public trial, including as it does , the right not to be convicted by use of coerced confession, however logically relevant it be, and without regard to its reliability.…….And nothing can be more certain than when a coerced confession is involved, "the relevant rules of evidence" are overridden without regard to the incidence of such conduct by the police" slight or frequent…..The ignoble shortcut to conviction left open to the State tends to destroy the entire system of constitutional restraints on which the liberties of the people rest. Our decision….gives to the courts, that judicial integrity so necessary in the true administration of justice."

Given the above, Appellant petitions the Court for a Declaratory Judgment of invalidity of an "Appropriate Examination" performed on the Authority of the State, by a different "class" worldviewpoint Examiner, in order to eliminate Religious Bias. The State in selection of the "secular" psychiatrist and psychologist acted 'in concert and conspiratorily' to exclude Christain Healing by seeking to further a particular worldviewpoint of Religion: Secular Humanism with an foundational allegation of "Illusion of the Existence of God"; and consequently a belief in God being a Neurosis or even symptomatology of Psychosis." It is also evident that the "mobilized passions" of some minority religions: (notably certain nominal Non-Messianic Jews and Islamic physicians) were particularly evident in a conspiracy to exclude a "Healing Practice based on Resurrection Healing" that was not understood by religions that fail to recognised that God is the God of Science and the Giver of Life, that the Messiah's Word has Spirit and Matter Transmuting Power (Exousia-Authority and Dunamis-Power). As Dr Luke relates Archangel Gabriel's word: The Word of God shall not be void of Power. Luke 1:

Knowledge of God is obtained by Researching God in an ever Continuing Increase of the Kingdom of God, cleaving to Him and to all His Revealed

Present Truth and pragmatically putting into practice all His Knowledge at the individual's standard of Proof of Him. Although He has finished all His Work and operates at His Infinite level of Faith, He still meets every man at their level of faith, at their knowledge and Expectation level of His Integrity and Certitude as A Just and Holy Judge, The Amen. No man can believe God beyond their certainty of His Actions. Everyman requires "Judicial Notice of God's abundant Actions" which those with perceiving hearts are diligent to see. Humility, Tenderness of heart and Forgiveness is a Great Cure for once proud hearts - the only root and fundamental catalyst leaven of the slanderer and adversary. I propose to the Court that the devil is simply a Person like every other except that he is a "prosecutor" and "an accuser of the brethren" and the Christ is the Defence Attorney in God's Court in Heaven whilst His Holy Spirit is 'the Paraclete' the Advocate on Earth. The devil must win his case before God the Creator and Possessor before proceeding with illnesses and sickness upon a soul and body. The pleadings before God, the prayers before God are copied by the operations of this Court, and answered with Relief and Healing and Aquittal as this Court also operates. The Word fulfilling the Healing Request often times at the Initiative of God's Court, particularly as the True Defending Counsel has already for all time satisfied all the Requirements of the Court on behalf of

His Clients and Adopted Brothers-Joint Sons of God and as Heirs of God's Inheritance.

God's Inheritance also include Powers of His Kingdom and Operations of His Holy Spirit which lie within Reach of every man, especially Physicians as Life workers.

A Most important Issue to allay fears is "How to Determine with certainty the Identity of **the True Holy Spirit**- that one co-operates with. "How to exclude "Anti-Christ Spirits" and "pretender-Christ (Pseudo-Christ) Spirits". Th True Holy Spirit who Resurrected Jesus always magnifies Jesus as God in the Flesh. He also Resurrects and Heals.

First is to recognise that spirits are persons and spiritual protocol governs every transaction and all spirits are subject to **True Godly Authority** even so called "demons and devils". No demon or devil is brave enough to say no to God, and none may refuse the delegated Word of God. "The devils believe and they tremble" Only men dare refuse or fight against the Kingly Dominion, ignorant of the certain consequences of rebellion.

A man's humble submission to God in a Graceful equilibrium balance of constant Obedience to and prompt Repentance when required and

Forgiveness of God for the deeds of his creatures (thus unaffected forgiveness of each brother - no matter how vile they may look to physical eyes) mandates the Godhead to Act by Grace Connections through that Life. The Process is entirely far more scientific that any psychiatry/psychology/ secular humanism theories or practice and extremely simple and uncomplicated as operating a Computer step by step until the whole is revealed as an intricate Equilibrium Program of infinite Potential, simply step by step in the footprints of "theodidaskalos" Holy Spirit Doctrine. The learning curve is in the Humility, Tenderness of Heart, Contrite Heart, Repentance, Forgiveness and Obedience. Every man acknowledging and embracing the RESURRECTION OF THE CHRIST by his own will and his own words from his humbled heart that perceives the Work of God in his Defence in Heaven's Court of the Vicarious Sacrifice of Christ (by His Stripes we were "saved" healed- once and for all Space-time continuum) and accepts the Vicarious Disqualification of the false "defender/attorney" comes under the Grace of the Court instead of a focus entertainment centered on the Rules of the Court to the detriment of the defendant and justice. This is the Bema of the Adversary. The judgment seat of the devil Matt 5:22

This science of Forgiveness and Abundant Charity of Attitude in the midst of Disagreement with profound Endocrinology Effects on the hormones and mind, soul and spirit is now being incorporated by secular Psychology and none of it is new to secular psychology. Still the Supreme Court has had to declare Psychiatry and Psychology "inexact sciences" which by double definitions really means "no science begging to be science" - on power of conviction as to its certainty.

Hippocrates and Aristotle earlier physicians had a working knowledge of the "Hormone that flowed from the head giving life to the body : the four humors: water, fire, wind and earth. Charles Darwin did not originate evolution as a hypothesis which was initially propounded by Aristotle and then fell into disrepute. Most evolutionary theorists fail to take into account the Matter transmuting Power of God and His ability to accelerate Chronos Time or Reverse Time or Hold it still, whilst Kairos Time is being fulfilled. We have a God who does not operate by Chance. Albert Einstein stating "God does not play dice"

Apostle Paul, companion and legal peer of Apostle Dr Luke described this to his protegee and later Brother Timothy as 1st Timothy 6:20 "keep that which committed to thy trust, avoiding profane and vain babbling, and oppositions

of science falsely so called verse 21 Which some professing have erred concerning the faith. Grace with thee. Amen."

Here again Paul confirms the Doctrine committed to Timothy as the True Science. This is a Science not vain, empty but full with Heavenly Power and a Heavenly Science.

That Jesus of Nazareth is the Great Physician and Consummate Scientist is clear: He spoke Words of Healing and Heavenly Beings Persons, Nurses and Surgeons performed His Words; Demonic beings disengaged all based on Authority. //////Matter itself multiplied in response . But He who would partake of the Divine Nature and work Miracle must be Sober, ceased from stubborn self-will, and self-seeking or survival but Loving embrace the Divine Will without wavering or fear of persons (man or demon)
A willing Covenant Oath of Office and Ordination by the Messiah Himself or through His delegates confers Authority at successive levels to perform this service and noble ministry call of the Physician. The centurian gave this clue of His heavenly operations and of the Faith of the Operations of God. It is based on Authority earned by progressive Humility to God; explained further by Rabbi Paul as subjection to God's Governance Architecture

especially in Transaction earthly human relationships, whether by servants to masters or wives to their husbands as unto the Lord. Angels and Demons/Devils obey the Voice of a man subject and obedient to God in all his dealings.

A Threshold point of Obedience calls forth Healings and Miracles as the Holy Spirit wills.

Harmony with the Will of God and a Persuasion Pleading of a God whose demonstrated Will it is (on the Cross and by the Resurrection) to Heal and be intimately involved in all the Affairs of Man. He hides Himself, only by His Grace, because of His already declared Holy Judgment against Sin and Iniquity, which must be performed in His Presence. A Man's artful and skillful separation from Sin and Inquity by Vicarious Disqualification unto the Throne of Grace, brings forth Unveiled Revelatory Forgiveness in the Heart and Unlimiting Effusion of the Tender Holy Spirit of God from His Throne Room.

This Process of Atonement and Grace Infilling and In-Gathering is now available scientifically to everyone willing to put the process to Empirical Scientific Testing and this has been the Discovery thus far.

More Research into the Operations of God only brings forth more Understanding of an Infinite Scientific process where matter and man cooperate as Giver and Receiver of Instructions and words of Grace.

This Principle of Jehovahshua is described in Psalm 65:5 applicable to the Jewish faith as well as the Moslem faith:

By terrible things in righteousness wilt thou answer us, O God of our salvation(Elohim shua) who art **the confidence** of all ends of the earth, and of them that are afar off upon the sea.

The word confidence translated from "mibtach" the Science

Every man has a spirit in him, his own spirit or a pretender spirit in Progression elevation of the soul in the Sarx body or Flesh body separate from the Physical body that is seen. The Flesh- the body of sin is removed during renewal and regeneration by Christ in a Metamorphosis of the Sarx as is seen in Bios metamorphosis in the Animal kingdom all working by "Hormonal" Transformation

'Resistant wills' deny their own transformation and become "irreversibly sickled" as is found in Sickle Cell disease in the Physical body.

Many Physical diseases manifest from manipulations on the Sarx , Mind, Soul and Heart.

The Holy Spirit is a Person. And He is also "The Spirit." The Federal Spirit Gd the Spirit. His Symbols are unmistakable throughout the Bible for His unambiguous Recognition which collectively no other spirit can emulate Performer and Teacher of the Incarnation of The Christ into The Flesh, Hence the Compulsory Obedience of all spirits in The Flesh to Kingdom Dominion Authority

In-Gathering Spirit: God that gathers the multitude of any or all species of beings; Orchestrating Harmonic Symphonic movements of all simultaneously

By Mercy, Spirit of Grace giving men, a New Undivided heart to serve God willingly and lovingly

Intimate Giver of Life

Inspires with the Voice of God

Anointing Olive Oil Symbol of His Presence

Fragrant Aroma of Specific Incense

Honey and Honeycomb

Pure River of Water of Life

Cistern or Spring or Well in the Heart of Pure Living Water giving by The Messiah and of Joy of The Spirit

Washing and Purifying with a **Refreshing Inspiration** and Breath- hence also called - The Pneuma

Tender Delicate Light as a Dove

Bearer of Shekinah - Cloud of Glory of God

The Great Wind from Heaven

Spirit of Wisdom and Understanding (Unclutters the Thinking)

Has Given every Scientific Discovery throughout the Ages

Spirit of Light

Spirit of Clarity to see through Errors and Traditions of Thoughts of a Mind of Unregenerate Flesh

Awakens Heart, Mind of Spirit and the Knowing of the Voice of God.

Transforms Flesh to Holy Flesh - Glorified Flesh

Awakens Gifts of GRACE for GRACE HEALINGS

(3) Declaratory Judgment on Invalid Admission by Administrative Law Judge Hearing of Psychologist Expert Report Opinion through Psychiatrist

The Supreme Court held in Daubert v Merrell Dow Pharmaceuticals 113S. Ct 2786 (1993) that a trial judge must ensure that any and all scientific testimony or evidence must be "not only relevant, but reliable". Thus the trial judge is "the gate keeper" to ensure that expert's opinion are well grounded and sufficiently reliable to be heard. Rule 702's requirement that the testimony "assist the trier of fact to understand the evidence or to determine a fact in issue" goes primarily to relevance by demanding a valid scientific connection to the pertinent inquiry as a precondition to admissibility

The U.S. Supreme Court held in Kumho Tire Co, Ltd et al V. Carmichael, 119 SCt 1167 (1999) that the Daubert's requirements of reliability not only applied to scientific experts but to all experts

The trial judge must therefore carefully evaluate expert reports.

Thus an expert witness with knowledge, skill, experience, training, or education may offer an opinion in his or her areas of expertise which is relevant to the case and which assists the trier of fact to understand the

evidence or determine a fact issue. Under Daubert and Kumho, the opinion of the expert must be **based on reliable methodology or analysis** and not on subjective belief or unsupported speculation. Reliability of Expert Testimony is as important as **the Relevance of the Expert Testimony**

Daubert confirmed that Fed Rule 702- place appropriate limits on the admissibility of purportedly scientific evidence by assigning to the trial judge the task of ensuring that an expert's testimony both rests on a reliable foundation and is relevant to the task at hand

The Administrative Law Judge by permiting Board Expert Psychiatrist Dr Hertzberg to subsume Board expert Psychologist Report delegated his task of ensuring reliable foundation, methodology or analysis and Relevance of the Board Psychologist's report to the Psychiatrist: Dr Hertzberg. The only testimony on record of the Methodology of the Evaluation was from Petitioner/Appellant who reported an adverse, abusive unprofessional and combative evaluation with "denial of his record of the Testing in the face of previous decumented Conspiracy of Physicians) and "ad hoc" extension of tests with consequent unreliability of the report. Moreover Petitioner/ Appellant testified to the Judge Psychologist's self admission of his lack of expertise concerning Christian Personality Evaluation and his lack of knowledge concerning Christian beliefs, Christian Healing Practice and the

Christian Mind-Set. Despite this, Psychologist was not presented by State for Confrontation and Cross- Examination to establish facts of his report and for the ALJ to confirm the reliability of his methodology, and unavailability was not demonstrated to Appellant's sub poena of Board Pyschologist. Petitioner prays the Court to find Judicial Error in delegating Psychiatrist Dr Hertzberg the task of determining the Reliability and the Relevance of a another expert's (Psychologist) Report which is a legal finding of fact reserved and assigned to the trier of fact-the Judge, by Daubert and Kumho. Thus Appellant prays the Court to find prejudicial Judicial Error and Abuse of Discretion and exclude Psychology Report and all its modifications of Dr Hertzberg's initial normal Personality Report. The weight and Probative force given this evidence by Dr Hertzberg; and the consequent recomendations demanded that the findings, Methodology and diagnosis be certain, rigorous and reliably performed, without infringement of the lawful rights of Appellant to reproduce a Recording of this highly contested Procedure, now proved wrong and also irrelevant to Christian Personality Evaluation or Divine Healing Practice. Moreover Dr Donner admitted to Appellant, he was not knowledgeable, skilled, experienced or trained in the evaluation of Christian Beliefs and Personality as described by Dr Robert Emmons Record Extract(E032)

The Supreme Court in Mapp v Ohio 367 Us 643, 81 S Ct 1684, 6 L. Ed. 2d 1081 (1961) has confirmed it has not hesitated to enforce as strictly against the State as it does against the Federal Government the rights of free speech, and of a free press, the rights to notice and to a fair public trial, including as it does , the right not to be convicted by use of coerced confession, however logically relevant it be, **and without regard to its reliability.....And nothing can be more certain than when a coerced confession is involved, "the relevant rules of evidence" are overridden** without regard to the incidence of such conduct by the police" slight or frequent.....The ignoble shortcut to conviction left open to the State tends to destroy the entire system of constitutional restraints on which the liberties of the people rest

(3) Declaratory Judgment on the invalidity of Procedure of submiting a normal Physician under Preliminary Investigation to the "Appropriate Examination" of the Physician Rehabilitation Program.

The Invalid procedure of submiting a normal Physician (Unimpaired and Undisabled) under Preliminary Investigat ion as required by Section 14-404(a) (A) (1) and (2) for prior Authenticity of complaints by required designated Board Staff Preliminary Investigation, to the "Appropriate

Examination" of the Physician Rehabilitation Program of Section 14-402 (a) (b) and (c) where "Appropriate Examination" stands for Psychiatric and Psychology Testing was only possible because the Medical administrators of MGH were too close to the BPQA; in effect using "Appropriate Examination" inappropriately as a Preliminary Investigation tool, for which it is not designed for (to authenticate complaints as an investigator or trier of facts) and neither can Health Occupation Article Section 14-402(a) (b) and (c). Petitioner therefore petitions to invalidate this as unconstitutional and a violation of the 4th Amendment US Constitution enforced through the Due Process Clause of the 14th Amendment, applicable to States and Federal Governments.

Petitioner/Appellant contends that the Board has no authority to conduct "Appropriate Examinations" ad hoc, without Authenticity of Allegations from referrent Hospital MGH, and outside of Procedure, and intent of Legislature. And in doing so State Board acted arbitrarily and capriciously against liberty, life and property against Protection accorded Appellant under 1st Amendment and the 4th Amendment enforced through the 14th Amendment Due Process Clause and by further enforcing "Appropriate Examination" against Appellant's stated Christian Preference by Section 14-402(c) threateningly with Immediate License Suspension acted

"capriciously" against the Will of Physician Licencee who at that Procedural Stage by Regulation Procedure, had to be presumed and treated as Normal UnImpaired Physician. This is "Coerced Examination" with no lawful cause. This error was not "harmless error" as subsequent concerted actions of the Board demonstrate, but was part of an orchestration to defame Petitioner/Appellant and in so doing defame and discourage "Christian Healing Prayers in the Practice of Medicine" among Physicians. The question again concerns "the reach of State Power" and the protection of "liberty" defined by the Supreme Court as more important than any suggested countervailing public objective"

Empirical Scientific study of Resurrection Healing and its further Research into Appropriating God's Ways of Healing may help clarify in an ancillary informed consent decision making for the uninformed seeking observance relationship and religion. The Physician-Patient encounter similar to the Counsellor-Patient relationship is primarily transactionally a benefit relation with a Outcome based motive Force. Religious Observance Keeping under the controlling Role of Physician and any risk of indoctrination is not significant

(4) Declaratory Judgment according to APA Section 10-125 on the invalidity of Procedure of selecting "Board Expert" on an "ad hoc" basis without confirmed elimination of this personal bias by defined Specific Procedural Regulations of APA Section 10-122(b), which requires that "To help people deal with the unit, the unit shall supplement, so far as practicable, the regulations under this section with a description of the procedures of the unit.

There were no description or documents of the selection procedural process for selecting Board Experts "Pyschiatrist"and"Psychologist" both of whom shared Offices were **personal friends** and Residency classmates to "medical administrators at index hospital MGH determined to stand against the application of "Healing Prayers in Medicine Practice"

(5) Declaratory Judgment according to APA Section 10-125 on the invalidity of Procedure of "Board Psychology Expert" Evaluation based on unprofessional methodology; adverse and extremely interpersonal adversorial conditions that was rather very unprofessional; and "extending by Ad Hoc Decisions" beyond the Consent of Petitioner for the scheduled IQ test only, Petitioner had been informed will be done.

"While an agency has some discretion with regard to policy questions whether to proceed by regulation or by decisional rule, Maryland Ass'n of Health Main Org v. Health Serv Cost Review Comm'n, 356 Md 581, 600, 741 A 2d 483, 493 (1999), in Maryland this discretion does not exist as to procedural matters. (Calvert County v. Howlin, 364 Md 301 322 772 A.2d 1209 1221 (2001). The Court of Appeals has held in Engineering Management Services v. Maryalnd State Highway Administration " we did not hold, and Howlin did not stand for the proposition, that an agency can avoid its obligation to promulgate procedural rules by merely announcing them prior to proceeding in a contested case.

Here once again Wolf's Supreme Court constitutional documentation of the right of privacy free from unreasonable state intrusion and exclusion of evidence secured by official lawlessness in flagrant abuse of the basic right of privacy, reserved to all persons.

The question has always been one of **state power**, not one of passing judgement on the wisdom of one state course or another.

(6) Declaratory Judgment according to APA Section 10-125 on the invalidity of Selection Procedure of "Non-Christian Board Expert" according to "ad hoc Decision" basis without confirmed elimination of worldviewpoint discrimination bias by the defined Specific Procedural

Regulations of APA Section 10-122 and Section 10-124, to evaluate Christian based belief and practice of Healing Prayers in the Practice of medicine

APA Regulations Section 10-124 Evaluation of Impact

(a) "Businesses defined"- In this section, businesses mean a trade, professional activity, or other business that is conducted for profit

(b) Required

(1) Before a unit adopts a proposed regulation, the unit shall evaluate whether the proposed regulation has any impact on business

(2) To evaluate the impact, **the unit shall**:

(i) on the basis of the sizes of the businesses that the proposed regulation might affect, **divide those businesses into any classes that the unit considers appropriate for the proposed regulation**; and

(ii) particularly consider:

1. the costs that the proposed regulation would impose on each class; and

2. the difficulty of compliance for each class

Section 10-124(c) provides : "On the basis of the evaluation, the unit may adopt 1 or more regulations that apply differently to classes of businesses

An integral judicial review of this case confirms that Petitioner has acted in good faith in bring Healing Prayers to the action of the State Board and that conserted and hostile reports were fabricated against Petitioner's conduct of Healing Prayers in the Practice of Medicine; as has frequently been the case with

DECLARATORY JUDGMENT OF LEGAL ACCEPTANCE OF SOUL AND SPIRIT IN THE PRACTICE OF MEDICINE

Based on "the N of 1 Trials doctrine" of scientific proof when a chronic condition not known to be normally reversed according to the knowledge then present is dramatically and compellingly reversed and cured, that consititutes compelling scientific evidence of cure.

The "Raised from the Dead" Videoevidence entered into evidence, confirmed by the 3 doctors witnesses including the Morbid Anatomist who performed Formalin-Embalment, constitute such a compelling proof in modern day medicine.

The Historical Record of the Resurrection of Jesus of Nazareth and the Healings that have proceeded from this Resurrection are also proof of the Life that is imparted to the Soul and Spirit of man to transform man's flesh and body back to life.

Petitioner therefore petitions the Court for a Declaratory Judgment based on presented evidence for a Legal Acceptance of the Role of the Soul and Spirit in the Practice of Medicine, as these definitions are a necessary terms to the effectiveness of Prayer Healings in the Practice of Medicine.

CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, REGULATIONS

CONSTITUTIONAL PROVISIONS

US Constitution Amendments 1

US Constitution Amendments 14

US Constitution Amendments 10

US Constitution Amendments 4

US Constitution Amendments 6

US Constitution Amendments 5

US Constitution Amendments 7

Maryland Constitution Article 36 on Religious Freedom

Article 6 Maryland Constitution

STATUTES

United States Public Law 107-293 The Pledge of Allegiance Protection Act 2002

United States Public Law 105-277 NCCAM Mandate 1998

ORDINANCES

White House Executive Order 13147, 2000

Fed Rule 702

Fed Rule 402

Fed Rule 102 Purpose and Construction

Maryland 1-201 Rules of Construction

(Professor Graham C. Lilly University of Virginia: An Introduction to the Law of Evidence 2nd Edition (1987) page504 quoting Commonwealth v. Lykus, 367 Mass. 191, 327 N.E.2d 671 (1975).

Maryland Rules Evidence Rule 5-702

Rule 401

REGULATIONS

(APA Regulation Section 10-123)

Health Occupation Article Title 14 as in Section 14-102 State Governmental Article Title 10 Administrative Procedure Act: Regulation Section 10-125 Title 14 Section 14-101(l) (1) and (2)

(APA Regulation Section 10-123) Section 10-123(b):

Health Occupation Article Title 9 Section 9-307

Health Occupation ArticleTitle 14 Regulation in Title 14 Section 14-101 (l) (2)(iii)

SGA Section 10-124 Regulation Evaluation of Impact provides in Section 10-124(b)(2)(i)

Health Occupation Article Section 14-402(a) (b) and (c)

APA Section 10-122(b),

APA Regulations Section 10-124 Evaluation of Impact Section 10-101(l)

Federation of State Medical Boards (2002): Model Guidelines for the Use of Complementary and Alternative Therapies in Medical Practice [Online At www.fsmb.org

Institute of Medicine Report (Jan 12, 2005): Complementary and Alternative Medicine in the US (Recommendations of Integration and Common Research Standards and Evidence of Treatment Effectiveness in all Medicine) (Board on Health Promotion and Disease Prevention HPDP)[Online At www.

CASES CITED

Katzenbach v Morgan 384 US 641: 1966

NAACP v Alabama

Brown v. Board of Education

Griswold v Connecticut

Daubert v. Merrell Dow Pharmaceuticals, Inc --US--, 113 S Ct, 2786 (1993).

Kumho Tire Co, Ltd et al V. Carmichael, 119 SCt 1167 (1999)

Good News Club v Milford School district certiorari to US Court of Appeals for 2nd Circuit #99-2036 June 11, 2001

Zorach v Clausen 343 us 306: 1952

Hutton v. State, 339 Md 480, 663. A.2d 1289 (1995).

Reed v. State, 283 Md. 374 (1978) adopting

Frye v. United States, 293 F. 1013 (D.C. Cir. 1923).

United States v. Gould, 741 F.2d 45 (4th Cir. 1984);

Torcaso v Watkins, 367 U.S. 488 (1961) [Footnote 11] as among religions in this country which do not teach ….. a belief in the existence of God".

(Calvert County v. Howlin, 364 Md 301 322 772 A.2d 1209 1221 (2001).

Maryland Ass'n of Health Main Org v. Health Serv Cost Review Comm'n, 356 Md 581, 600, 741 A 2d 483, 493 (1999),

.**(Beech Aircraft Corp. V. Rainey**, 488US 153, 163 (1988)

MEDICAL REPORTS

Dr Luke and New Testament

John 8:7-9

Phillipians 3:3, 8-12

Psalm 65:5 and Old Testament

Federation of State Medical Boards (2002): Models

Institute of Medicine HPDP Report (Board on Health Promotion and Disease Prevention (HPDP) - Jan 12, 2005): Complementary and Alternative Medicine in the United States (Recommendations of Integration of Healthcare, Common Research Standards and Evidence of Treatment Effectiveness in all Medicine)

(Board on Health Promotion and Disease Prevention HPDP)

Nancy Waring of the (medically prestigious) New England Journal of Medicine Journal Watch - Massachusetts Medical Society (Hippocrates 2000 (14) 8 August 8, 2000)

(**Byrd RC**: Positive therapeutic effects of intercessory prayer in a coronary care unit population. South Med Journal 1988, 81:826-9)

(**Sicher F** et al : A randomized, controlled trial of the effects of distant healing in a population with advanced AIDS. Report of a small scale study West Journal of Medicine 1998; 189:356-63)

(**ASTIN JA** et al The Efficacy of "distant Healing": a systematic review of randomized trials Annals of Internal Medicine 2000; 132: 903-10)

Dr Larry Dossey, author of Healing Words: The Power of Prayer and the Practice of Medicine (1993)

Pulchalski CM, Larson DB Developing Curricula in Spirituality and Medicine Acad Med 1998; 73: 970-4)

OXFORD Regius Professor William Osler's "The Evolution of Medicine" Johns Hopkins Hospital Library

Professor William Osler " The Faith that heals" BMJ 1910 (E650)

Professor Herbert Benson: "Timeless Healing"

Handbook of Religion and Health (2001) edited by Harold Koenig, David Larson and Worthington from Duke University and National Institute of Healthcare Research

Journal of the American Medical Association(1998) Editorial: Fontanarosa and Lundberg

Jonas WB (2002) Policy, the public, and priorities in alternative medicine research Annals of the American Academy of Political and Social Science 583:29-43

PREPONDERANCE OF EVIDENCE STANDARD FOR CONSPIRACY BY CONCERTED ACTIONS AND MOBILIZED PASSIONS AGAINST MESSIAH-CENTERED HEALING (GRACE HEALING) BY policy makers MEDICAL ADMINISTRATORS, THE STATE BOARD OF PHYSICIANS, AND THE OFFICE OF ATTORNEY GENERAL, AND OFFICERS OF THE COURT

With arbitrary and capricious actions against Constitutional Rights of Petitioner/Appellant and against the Interests of the People of Maryland

Denying the People of Maryland Access to Effective Treatment Remedies of Grace Healing Practices and denial of Truthful information about the Diseases of the Spiritual, and Soul, and Mind Dimensions for many treated but uncured chronic diseases, Information that God is still in the Healing Business today as well as in Resurrection and a consequent need to turn to Almighty God for Healing today. that are untreated by conventional medicine alone

Denying information of Resurrection Healing to the Public and People of Maryland.

Refusing to follow Statutory Duty to investigate and Authenticate Healing Practice for Treatment Effectiveness for the People of Maryland

CLEMENT I MOMAH MD
1435 10TH ST
LANHAM MD 20706

IN THE COURT OF APPEALS
AT ANNAPOLIS MD

PETITIONER/APPELLANT

VERSUS

STATE BOARD OF PHYSICIANS
4201 PATTERSON AVENUE
BALTIMORE MD 21215

RESPONDENT/APPELLEE

CERTIFICATION OF SERVICE

Petitioner hereby certifies that a copy of this Addendum Supplement to Petition for Writ of Certiorari has been mailed to Petitionee/Appellee State Board of Physicians by first class mail to Attorney Noreen Rubin, Department of Health and Mental Hygiene, 300 West Preston Street, Suite 302, Baltimore, MD 21201 on October 8th, 2005.

Respectfully Submitted

Dr Clement Momah

Petitioner/Appellant Pro Se

CLEMENT I MOMAH MD
1435 10TH ST
LANHAM MD 20706

PETITIONER/APPELLANT

VERSUS

STATE BOARD OF PHYSICIANS
4201 PATTERSON AVENUE
BALTIMORE MD 21215

PETITIONEE/APPELLEE

IN THE COURT OF APPEALS
AT ANNAPOLIS MD

SEPTEMBER TERM 2005

PETITION Docket No 350

ADDENDUM TO RESPONSE TO MOTION TO DISMISS

Date: October 29th 2005

Circuit Court No 24C02474

Court of Special Appeals No 391 September Term 2003

CONSTITUTIONAL ISSUES

" JUDICIAL STRICT SCRUTINY STANDARD"

EXPANDED SUSTITUTED JUDGMENT STANDARD OF REVIEW "

In keeping with Constitutionality, the central legal question of this case:

"Whether an act, repugnant to the constitution, can become the law of the land"

has affected several aspects of this instant case: with outright "Search and Seizure without Probable Cause" IVth Amendment Constitutional violations by "Warrantless and unlawful" Agency Policing and Testing Procedures and Agency Procedural Due Process Violations, Violations of Hearing Trial Procedures and Trial Court Procedures and arbitrary and capricious events by non-credible medical administrators initiating this case by "fabrications of evil reports", all in the concerted efforts to prohibit lawful Pleadings Prayers to God for Healings in the Practice of Medicine of the Spirit, Soul, Heart, Mind and Body of man.

Whilst the Scope of Review by a Judicial Review may normally be limited to substantial evidence in a lawfully conducted administrative agency proceeding, the Supreme Court has set forth and established that a full court review is necessary when constitutional facts are in question (Ohio Valley Water Co. v Ben Avon Borough, 253 U.S. 287 (1920) and fundamental rights and constitutional guaranteed liberties have been violated. The Ben AvonCourt held that the Court scope of review can be expanded under

certain conditions, especially when fundamental rights are at stake. This Ben Avon Doctrine has been recently cited as justification for expanded judicial review of Agency decisions (Goldberg v Kelly 397 U.S. 254 (1970)

The Whole Record Review Judicial Standard of Administrative decisions established by the Supreme Court in Universal Camera Corp v, NLRB, 340 U.S. 474 (1951) defined the meaning and significance of the whole record requirement of the (1946 Federal) APA Section 706 (2) requiring application of the substantial evidence rule in the light of the whole record, was acknowledged by the Court as "..'APA prohibition of the Courts of looking at only a part of the record to determine whether agency decisions are supported by substantial evidence,' pointing out that reviewing courts must now examine the whole record, including conflicting evidence.: "The substantiality of evidence must take into account whatever in the record fairly detracts from its weight. This is clearly the significance of the (APA) requirement....that courts consider the whole record" at 488. In this context of the whole record requirement, "In the final analysis, substantial evidence consists of proof within the whole record of such quality and quantity as to generate **conviction** in and **persuade** a fair and detached fact finder that, from that proof as a premise, a conclusion or ultimate fact may be extracted

reasonably_probatively and logically" (300 Grammatian v Human Rights Division 45 N.Y. 2d 176, 181 (1978)

A Precedential California decision, Strumsky v. San Diego Employees Retirement System, 11 Cal 3d 28 (1974) statutory entitlements, in addition to constitutional guarantees qualify for full judicial review; the court being obligated to grant full judicial review when agency actions deprive persons of statutory entitlements in which they have a "fundamental vested right". The Federal Court in Southern Community v Community Services, 462 F. Supp. 289 (S.D., W. Va., 1978) held that a stronger test than the substantial evidence rule should be required when contested regulations might encroach upon free exercise of fundamental rights. (Goldberg v Kelly 397 U.S. 254 (1970) ruled that some statutory entitlements (for example, welfare benefits) should be regarded as fundamental rights

Affirmative defenses of the State of a claim of statute of limitation on Filing Petition for Writ of Certiorari have been shown in error in Petitioner's Response to Motion to Dismiss and are also waived [(Eng Mgmt Serv v MD State Highway Ad 375 Md 211, 235 825 A2d 966, 980 (2003)] by the State's fraud in representation to the Court Of Special Appeals "No Further Motion of Reconsideration" based on ground of Maryland Rules 8-602(c)(4)

applicable only to 10day Motions for Reconsideration for Rescinding a Judge's Order to Dismiss being applied to the 30days Motions of Reconsideration of this case in its entirety including required consideration of the merits of the case. Moreover in Goldberg v Kelly, 397 U.S. 254 (1970) the Supreme Court established that, with eligibility once established, collecting welfare benefits should be considered **a statutory right** and not a mere priviledge. Thus Petitioner's indigency status at the time of September 24th, 2003 Court Dismissal having been established by District Court Judge final judgment on September29th, 2003 was of statutory probative force in addition to Rule 1-325, to grant Re-Opening of Appeal on May 5th, 2004 in response to Motion to Re-Open on February 10th, 2004

In Marbury v Madison [1 Cranch (5U S) 137, 2 L Ed 60 (1803)] Chief Justice Marshall in delivering the Opinion of the Supreme Court stated: "The US Constitution is the superior paramount law of the land and controls any legislative act repugnant to it; ..then a legislative act, contrary to the constitution, is not law.....any act of the legislature, repugnant to the constitution, is void

If an act of the legislature, repugnant to the constitution, is void, does it , notwithstanding its invalidity, bind the courts, and oblige them to give it

effect? Or, in other words, though it be not law, does it constitute a rule as operative as if it was a law?"

If two laws conflict with each other, the courts must decide on the operation of each. Those who apply the rule to particular cases must of necessity expound and interpret the rule. So, if a law be in opposition to the constitution; if both the law and the constitution apply to a particular case, so that the court must either decide that case, conformably to the law, disregarding the constitution; or conformably to the constitution, disregarding the law……the constitution, and not any ordinary acts of the legislature, must govern the case to which they both apply. The framers of the constitution contemplated that instrument as a rule for the government of courts, as well as of the legislature….and to be bound by Oath to support it, …in an especial manner to their conduct in their official character" The Oath of Office of a judge: I do solemnly swear, that I will administer justice, without respect to persons, and do equal right to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as____.according to the best of my abilities and understanding, agreeable to the constitution and laws of the United States.

Again confirms the paramount of the constitution as a rule for the government of courts, as well as legislature. The Judicial Power of the United States is extended to all cases arising under the constitution."

Consistent with the above, the Court of Appeals of Maryland has stated in Grimberg et al v Martin No 124 September Term, 1994 Filed June 20th, 1995 page "In making his decision regarding the motion for Reconsideration, the trial judge should have considered whether there was a reasonable indication that (the estate) had a meritorious defense, that is, **"whether the court entertained a reasonable doubt that justice had not been done`"** quoting J.B. Corp. v. Fowler, 258 Md. 432, 435, 265 A.2d 876, 877 (1970) (quoting Clarke Baridon v. Union Co., 218 Md. 480, 147 A.2d 221 (1958)). If there were reasonable indicia that justice had not been done by permitting (Martha's) claim to proceed, denial of the motion for reconsideration would have constituted an abuse of discretion." The decision of the Court of Special Appeals of June 29th 2005 is thus seen to have been erroneous notwithstanding the constitutional issues of this case, in that the court did not determine "whether it entertained a reasonable doubt that justice had not been done". The Grimberg Court of Appeals thus considers an abuse of discretion where the Court of Special Appeals did not state its

review of the merits of the case and its determination "whether it entertained a reasonable doubt that justice had not been done".

In Wynehamer v New York 13 New York 3781 1856 Judge Comstock stated "when an act involved destruction rather than regulation that act was unconstitutional and therefore void"

"some absolute private rights beyond their reach".....the right of property

Ferguson v Skrupa 372 US 726, 83 S Ct. 1028, 10 L Ed 2d 93 (1963)

Therefore **the Prohibitory actions of the State Board** as it has been to destroy the Practice of Pleadings Prayer Healing Arts in the Practice of Medicine were unconstitutional and therefore void. Even so, because of the "punishment role of the unsupported actions of Suspension and Revocation of Petitioner's Medical License and the State's Publication of Slanderous and Inflammatory and unreliable Psychology Report derived Ad Hoc" the State acted arbitrarily and capriciously and is thus liable for its actions and violations of Petitioners Constitutional Rights, Liberty, Life and Property. There is an absolute necessity in this case and for the future to persuade the State to restrain itself to the "tutored constitutional neutrality of Public Law 107" in its policing administration of the Power of the People which is covenanted directly to each person unit, but delegated to the State for

Regulation purposes and Administrative purposes only. This administrative police power does not prevail over the Rights and Authority each lawful citizen derives covenantly from the Power of the People, inalienable Rights from God.

"Article I Section 8 of the US Constitution provides : The Congress shall have Power....To Promote the Progress of Science and Useful Arts"

This invested legislative power to Promote the progress of science and useful arts self evidently also applies to the Promotion of Pleadings Prayers to God for Healings as proven by US Congress sponsored Scientific Proof of Prayers in Healings in the Practice of Medicine, its Treatment Effectiveness and especially its Safety under the National Institute for Healthcare Research and under the National Center for Complementary and Alternative Medicine.

This Constitutional Mandate to the Congress of the United States and by the Fourteenth Amendment delegation to the State Legislature of Maryland further demonstrates the intent of the Mandate of the State Board being the Promotion of the Progress of Science in Maryland; that this failure to adopt Prayers Pleadings to God and the **Federation of State Medical Boards** (2002): Model Guidelines for the Use of Complementary and Alternative

Therapies in Medical Practice [Online At www.fsmb.org] (to which the State Board participated and noticed by sending Physician member Delegates) and the Recommendations of **Institute of Medicine Report**(Jan 12, 2005): Complementary and Alternative Medicine in the US (Recommendations of Integration and Common Research Standards and Evidence of Treatment Effectiveness in all Medicine) (Board on Health Promotion and Disease Prevention HPDP) the Institute of Medicine of the National Academy of Sciences Health Promotion 360pages [Read Free Online At www.nap.edu/books/0309092701/html] and (at C:Documents and Settings\User\Desktop\Nat'l Academies Press Complementary and Alternative Medicine in the United States.htm) are urged to be judicially noticed as acts of negligence on the part of the State Board and the State of Maryland requiring remedial action by the State.

Public Law 107-293-Nov, 13 2002 116 STAT 2057 107th Congress The Pledge of Allegiance Quoting in its Findings (3) In 1781, Thomas Jefferson's work titled "Notes on the State of Virginia": **God who gave us life** gave us liberty. And can the liberties of a nation be thought secure when we have removed their only firm basis, **a conviction in the minds of the people**, that these liberties are of the Gift of God. That they are not to be violated but with His Wrath?...(5) On July 21, 1789, on the same day that it approved

the Establishment Clause concerning religion, the First Congress of the United States also passed the Northwest Ordinance…which declared: "Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged (6) On September 25, 1789, the First Congress unanimously approved a resolution calling on President George Washington to proclaim a National Day of Thanksgiving for the people of the United States by declaring, " **a day of public thanksgiving and prayer,** to be observed by acknowledging with grateful hearts, the many signal favors of Almighty Gods, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness".. (8) ….**Prayers in our legislative halls**; **appeals to the Almighty** in the messages of the Chief Executive;…

(10) On July 20, 1956, Congress proclaimed that the national motto of the United States is "In God We Trust" reaffirmed Section 302 of title 36, 'United States Code, is amended to read as follows: "In God we trust"

"In God we trust" is the crucial point in "the Procedure of Pleadings Prayers to God" in Healing Prayers in the Practice of Medicine; based on the standard of proof and "Strict scrutiny" level that ultimately **a conviction in**

the minds of the people and a dissolution of doubt is completed. It is the motto and the dynamo to Moving the Hand of God in Healing Practice. God may not be engaged by the "neutrality" of "a clutching disengaging system" of doubt but by "a gearing engaging system" of science- **the exacting digital science of conviction**.

The Free Exercise Clause of the First Amendment grant a right to a lawful free exercise of the tenets of Christian derived Prayers Pleadings to God healings that satisfies the state interests of treatment effectiveness and safety without a lowering of medical standards of healings.

Article 1 US Constitution Section 9 and Section 10 state: "No Bill of Attainder or ex post facto Law shall be passed" by the United States or any state

Following Petitioner's demonstration to the Board during its Show Cause Hearing for Summary Suspension on December 20th, 2000, the error of its reliance on the Medical Opinion of a Family Practice Physician against an Endocrinologist for its Summary Suspension of Petitioner's Medical License, the State Board obtained Board Endocrinologist Expert Opinion Dr David Brown for an ex post facta Expert Opinion to support and justify its

decisions already taken against Petitioner, and with this support then charged Petitioner on March 2001.

This ex post facta Board Expert Endocrinology Opinion was obtained Ad Hoc to justify its charges which were unchanged from December 20th, 2000 and is thus unconstitutional according to above constitutional clauses. This safe-guard confirms its purpose of preclude ex post facta Bias as is replete throughout Dr David Brown Report, and confirmed by both of Petitioner's Endocrinology Experts Opinions.

Petitioner urges the Court to find therefore the Board's Expert Endocrinology Opinion unconstitutionally obtained and admitted as evidence to justify "ex post facta" erroneous Ad Hoc decisions of the State Board, and to strike it and its conclusions and effects from the decisions of the State Board, the Public Record and State Publications

The dangers of ex post facta actions were noted at Maryland General Hospital where the non-credible medical administrators influenced staff to allege in writing what each was not willing to defend on sub poena or on testimony but even more dangerously to Patient Care Issues were efforts to generate "medical loss of clinical standard issues" by deliberate neglect of Petitioner's patients and prescription orders of Petitioner, by instructions to

Nursing Staff or outright excessive insulin treatments producing "unexplained hypogylcaemias" in previously 'blood sugar stable patients' in the belief this would further discredit Petitioner and the Practice of Pleadings Prayers to God Healings

The necessary interposition of "a neutral judicial officer and particularly adherence to constitutional judicial processes" prior to any search and seizure of Petitioner's Clinical Privileges by MGH medical administrators would have protected the life, liberty and property of patients and the interests of the People of Maryland. What is certain is that "the Medical Ethics" of Ethics Culture in Medicine has not adequately restrained medical administrators/Physicians in the business of "'seizure and search' in Medical Practice" and using this practice to compel compliance with their particular beliefs or medical philosophy. Only Spiritual Transformation by the Holy Spirit of God can restore the Eusplanchnos (tender compassion) and Eulabeia (Piety and the Fear of God by compassion towards fellow man) of Physicians. Adequate Judicial Process prior to any "search and seizure" according to Judicial "Probable Cause" would assist in eliminating the use of "Intimidation tactics by 'medical administrators' to compel followership of prescriptions and consultative recommendations, often deleterious to patients ". Justice Peckham delivering the Majority Opinion of the Supreme

Court in Lochner v New York 198 U.S. 45, 25 S. Ct. 539, 49 L.Ed. 937 (1905) concluded …."Statutes of the nature under review limiting…. interferes with the rights of the individual and are not saved by claims that they are passed in the exercise of police power…….The purpose of a statute must be determined from the natural and legal effect of the language employed; and whether it is or is not repugnant to the Constitution of the United States must be **determined from the natural effect of such statutes when put into operation,** and not from their proclaimed purpose."

Th purpose of Maryland Statute Health Occupation Article Section 14 -402 and in particular Section 14-402(c) and similar statutes **to compel** the People of Maryland **to submit** to "Secular Humanism tenets of Psychiatry/ Psychology" based on grounds that 'belief in God' is an Illusion is thus seen in its effects and purpose as having been a "Bill of Attainder" and "Ex Post Facto law" directed (retroactively) against "belief in God" and the Christian Practice of God-derived teachings of health of Spirit, Soul, Heart, Mind and Body. A Statute not so directed would have provided for the different "classes of businesses" for which it is intended (as provided by Statute SGA 10-124: Evaluation of Impact) with "tutored constitutionally neutral" interest of the State without preferentially Establishing the Religion of Secular

Humanism or Prohibiting the Free Exercise of Christian based Pleadings Prayers to God Healing Practices of the Spirit, Soul, Heart, Mind and Body. Such Statutes are thus unconstitutional by intent and practice of Prohibition of Free Exercise Clause of the 1st Amendment of the U.S. Constitution, and are urged to be invalidated by the Court.

Article III Section 1 The Judicial Powers of the United States shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish....The Judges, both of the Supreme and inferior Courts, shall hold their offices during good Behaviour, ...

Article VI states in pertinent part:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding

This Article mandates that the Constitution remain the government rule of Procedure and prevails over the Rules of the Court where the two rules conflict in a meritorious case before the Court, as has already been presented supra

Moreover where a Judge's behaviour and decisions are violations of the Constitution, that decision is void.

Under the Judicial Strict Scrutiny Standard, Kenneth Davis asserts that Congress recognized the need for common law to assist the development of administrative law by stating in Section 559 of the APA (originally found in Section 12 of the 1946 APA): "**Nothing in this Act shall be held to diminish the constitutional rights of any person or limit or repeal additional requirements imposed by statute or otherwise recognized by law**". ...Furthermore the legislative history of the APA, even apart from section 559, fully supports the conclusion that the APA imposed only minimum requirements and did not impose any maximum limits on procedural protections that agencies might provide or the courts might require. The focus was on the minimum requirements, not maximum procedural safeguards. The Senate Committee said: "The bill....is not a specification of the details of administrative procedure, nor is it a

codification of administrative law. Instead..there has been framed an outline of *minimum* basic essentials"

Thus in necessary confining, structuring and checking discretionary agency decision making, Kenneth Davis contends that it is necessary that **judge-made common law** be developed so that abusive discretionary practices can be controlled (**Kenneth C Davis** "Administrative Common Law and the Vermont Yankee Opinion" (Utah Law Review(1980) 7-17 .

This Court is urged to Supplement and Recommend the State and State Board's Rule-making Standards with additional procedures to approach constitutional protection guarantees for each citizen of the state, particularly so in the Professions, to ensure careful judicial scrutiny of all administrative searches for probable cause and a predetermined Scope of Review to satisfy State interests. The Life, Liberty and Property of each citizen may not be put subject to minimum standards of Constitutional Protections from administrators engrossed in "mobilized passions" from religious, racial, political, economic or lack of appreciation of Progress of Science or any other form of prejudicial bias; and the capacity to be caught into such involuntary group bias scientifically well described by Phillip Zambardo's experiments and Publications at Yale and at Stanford (Appendix of Reply

Brief) mandate necessity for Preventive Measures against State Government Power being used capriciously in Conspiracy.

Amendment XIV Section 1: No State shall make or enforce any law which shall abridge the priviledges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws

Amendment IV The Right of the People to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon Probable Cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized

The application of "Appropriate Examination" to a Physician, without Government authenticated proof of impairment, is not "Probable Cause" and Maryland Health Occupation Article 14-402 particularly Section 14-402(b)(2) is unconstitutional on its face value and particularly as applied to

the case of Petitioner as in an unimpaired Physician. The Rights from the IVth Amendment are enforceable to the States through the Fourteenth Amendment

Petitioner therefore petitions for Invalidation of this Statute Section 14-402 with regards to Physicians with no Probable Cause for an"Appropriate Examination" diagnosis-searching absent Authentication of Impairment allegations by the State. The intent of above Article to limit abuse of Police Power in searching without a preceding Investigation with findings of Probable Cause Standard. The Absence of Fourth Amendment constitutionally mandated Rights Safeguards provided by an objective "predetermination of probable cause" from the usual requirement of advance authorization by a magistrate upon a showing of probable cause.

The Supreme Court recognized in United States v. Rabinowitz, 339 U.S. 56, 69 (1950) that search and seizure standards must be applied to administrative officials to prevent capricious and malicious administrative behaviour. Justice Marshall delivering the majority Opinion in Donovan v Dewey__US__ 101 S.Ct. 2534 (1981) confirmed that "Our prior cases have established the Fourth Amendment's prohibition against unreasonable searches applies to administrative inspections of private commercial

property" . The well established Principles of the 4th Amendment establishing requirements for the issuance of warrants whilst preventing fictitiousness since Mapp v Ohio extended the exclusionary rule to the States, demand that **the Government must demonstrate the informant's Reliability to the Magistrate or Judge when obtaining a search warrant** (Spinelli v United States 393 US 410 : 1969) and (United States v Harris 403 US 573: 1971). The information must be authenticated. And, this is paralleled in the State Board's requirement to authenticate allegations and information against Physicians by a Preliminary Investigation under State Statute requirement:

Thus failure by the State Government to authenticate adverse allegations by Preliminary Investigation before initiating "Disciplinary Action" or "Searches" by Psychiatric and Psychological Ad Hoc decisions is a violation of the Fourth Amendment Guarantee against seizures and searches.

In Terry v. Ohio 392 U.S. 1, 88S.Ct. 1868, 20 L.Ed. 2d 889 (1968) the Terry Supreme Court established **at what point** the Fourth Amendment becomes relevant..."The Fourth Amendment governs "seizures" of the person which do not eventuate in a trip to the station and prosecution for crime - "arrests" in traditional terminology. It must be recognised that whether a police officer accosts an individual and restrains his freedom to walk away, he has

"seized" that person. Such a procedure performed in public by a policemean ….is "a great indignity." It is a serious intrusion upon the sanctity of the person, which may inflict great indignity and arouse strong resentment, and is not to be undertaken lightly" …..a severe though brief, intrusion upon cherished personal security, and it must surely be an annoying, frightening and perhaps humiliating experience. The Terry Supreme Court majority concluding that (To Protect…themselves and others **in situations where they may lack probable cause for an arrest**); in the course of an Investigation, the (governmental) police officer observes unusual conduct which leads him reasonably to conclude in light of his experience that (criminal activity) may be afoot and that the persons with whom he is dealing may be armed and presently dangerous, where in the course of investigating this behaviour, he identifies himself as a policeman and makes reasonable inquiries, and where nothing in the initial stages of the encounter serves to dispel his reasonable fear for his own or others' safety, he is entitlied for the protection of himself and others to conduct a carefully limited search of the outer clothing of such a person in an attempt to discover weapons which might be used to assault him.

Such a search was admitted by the Terry Court as a reasonable search under the Fourth Amendment whilst it also defined the central inquiry under the

4th Amendment - "the reasonableness in all the circumstances of the particular governmental invasion of a citizen's personal security". Even so, this reasonableness standard was not met by the Board's lack of Investigation before it embarked on Psychiatric and Psychological Testings of Petitioner. Hence the Reports of these unconstitutional Testings are invalidated by their unconstitutionality. Certain fundamental principles have characterized the Fourth Amendment jurisprudence, the most basic principle being: a unanimous Court in GoBart Co v. United States 282 U.S. 344 (1931) : "There is no formula for the determination of reasonableness. Each case is to be decided on its own facts and circumstances..." quoted by Justice Marshall dissenting in Terry v Ohio

Nonetheless, "the validity of the search of a person incident to **a lawful arrest** has been regarded settled for purposes of Protection of Police Officer and Other's" . In this case, however, the Government Arrest of Petitioner in his Healing Practice and Revocation of Medical License was unlawful, absent Fourth Amendment Safeguards and Restraint of a Judical Officer's objective predetermination of Probable Cause; without Proven Probable Cause and absent Governmental Investigation, exceeded the authority of the Unit and thus subject completely to reversal. Petitoner further petitions for

an invalidation of both Board "Expert" Psychiatrist and Psychologist Reports and that these be striken from the Records and further Publication

In Katz v. United States 389 U.S. 347, 88 S Ct. 507, 19 L Ed. 2d 576 (1967) the Supreme Court holding that the Government's activities in electronically listening to and recording the petitioner's words, **violated the privacy** upon which he justifiably relied while using the telephone booth and thus constituted a "search and seizure" within the meaning of the Fourth Amendment. The Katz Court, in determining whether "the search and seizure" complied with constitutional standards, determined **retroactive validation of the government's conduct unconstitutional. "This we cannot do"** The Court emphasized the persistent position of the Supreme Court that the mandate of the Fourth Amendment requires **adherence to judicial processes**, ...and that searches conducted outside the judicial process, without prior approval by judge or magistrate are per se unreasonable under the Fourth Amendment__subject only to **a few specifically established and well delineated exceptions**. For the Constitution requires that the deliberate, impartial judgment of a judicial officer...be interposed between the citizen and the police with the safeguards provided by an objective predetermination of probable cause from the usual requirement of advance authorization by a magistrate upon a

showing of probable cause. Omission of such advance authorization substitutes instead the far less reliable procedure of an after-the-event justification for the ....search, too likely to be subtly influenced by the familiar shortcomings of hindsight judgment."

And by by-passing a neutral predetermination of the scope of a search leaves individuals secure from Fourth Amendment violations "only in the discretion of the police"...

When the government ignores "The Procedure of Antecedent Justification" that is central to the Fourth Amendment,....judgment against petitioner must be reversed."

In the United States v. United States District Court 407 U.S. 297, 92 S. Ct. 2125, 32 L Ed. 2d 752 (1972) the Supreme Court emphasizing the limited nature of the question "Whether safeguards other than prior authorization by a magistrate would satisfy the Fourth Amendment in a situation involving the national security...." And determining that the question required the essential Fourth Amendment inquiry into the reasonableness of the search and seizure in question, and the way in which that reasonableness derives content and meaning through reference to the warrant clause .....examining and balancing the basic values at stake before it: the duty of government to

protect (the domestic security) and the potential danger posed by unreasonable surveillance to individual privacy and free expression .__ **held** that "**Official surveillance**, whether its purpose be criminal investigation or on-going intelligence gathering **risks** infringement of constitutionally protected privacy of speech.....**this requires an appropriate prior warrant procedure** Fourth Amendment freedoms cannot properly be guaranteed if domestic surveillances may be conducted solely within the discretion of the executive branch The Fourth Amendment does not contemplate the executive officers of Government as neutral and disinterested magistrates. Their duty and responsibility is to enforce the laws, to investigate and to prosecute.....But those charged with this investigative, and prosecutorial duty should not be the sole judges of when to utilize constitutional sensitive means in pursuing their tasks. The historical judgment, which the Fourth Amendment accepts, is that **unreviewed executive discretion** may yield too readily to pressures to obtain incriminating evidence and overlook potential invasions of privacy and protected speech...The Fourth Amendment contempletes a prior judicial judgment, not the risk that executive discretion may be reasonably exercised. This judicial role accords with our basic constitutional doctrine that individual freedoms will best be preserved through a separation of powers and division of functions among the different

branches and levels of Government. The independent check upon executive discretion is not satisfied, as the Government argues, by extremely limited" post-surveillance judicial review. Prior Review, by a neutral and detached "magistrate" is the time-tested means of effectuating Fourth Amendment rights History abundantly documents the tendency of Government____ however benevolent and benign in motives___ to view with suspicion those who most fervently dispute its policies. Fouth Amendment Protections become the more necessary when targets of official surveillance may be those suspected of unorthodoxy in their political beliefs...." Official surveillance must be exercised in a manner compatible with the Fourth Amendment.

State Board of Physician interests do not justify departure from the customary Fourth Amendment requirement of **judicial approval prior to initiation of a search or surveillance**. The conduct of the State Board and the Office of Attorney General in this instant case, confirm the lessons of history, and as noted in the US v US District Court Opinion *supra* the inconvenience of an added burden imposed upon the Attorney General Office is justified in a free society to protect constitutional values. It further demonstrates the necessity of separation of powers as historical evidence confirms prosecutors do not function well in the required Neutrality of

Judicial Oversight and Regulation, and separate members of the Office of Attorney General do not sa[illegible] the Fourth Amendment Safeguard. "A 'prior warrant' establishes presumptive validity of the surveillance/investigation and will minimimise the burden of justification in post surveillance judicial review, defining the scope of the investigation and will reassure the physician public and People of Maryland that indiscriminate conspiratory investigation of law-abiding physicians cannot occur". This essential separation of Powers does not permit the unconstitutional role of the Attorney General Office being prosecutor, investigator, and judicial final decision maker in **the State Board's Exceptions Hearings** during the final decisionmaking Process of the Board, where the members of the same Office of the Attorney General exceeding the Role of "Counsel to the Board" and (**adopting a judicial role**) overruled Physicians Members of the State Board (Records Extract E307 page 15 lines 4-7 Mr Keech) in their function as Peer Reviewers and in seeking to including Rebuttal Evidence necessary in exonerating another Physician from what was apparently unfounded allegations. **State Board's Exception Hearings** denying unconstitutionally the 'neutral' Fourth Amendment Judicial Safeguard must therefore be invalidated as void constitutionally. It is certain that at the Exception Hearing stage, the Physicians have being more neutral decision

makers than the prosecutors from the Office of the Attorney General's Office whose official interests are in issues of law, not in the professional expertise understanding standard common to physicians. Hence the Counsel of Office of Attorney General must be limited Constitutionally to Counsel on legality of action.

Maryalnd SGA Title 10 Section 10-107 Unit counsel defined; submission to Attorney General; or unit counsel

(a) "Unit Counsel" defined- "Unit Counsel" means the unit counsel for the Human Relations Commission, the Public Service Commission, and the State Ethics Commission

(b) Approval as to legality.- Unless a proposed regulation is submitted to the Attorney General or to the unit counsel for approval as to legality, the regulation:

(1) may not be adopted under any statutory authority; and

(2) if adopted, is not effective

The definition of the role of the Unit Counsel does not include actions in role of Judicial Officer, a safeguard which could have prevented continued concerted actions against Prayer Healings and Petitioner's Medical Practice. That the members of the Office of Attorney General manipulated these hearings with fraud in representations to Judges to exclude evidence or

Motion to dismiss further confirms a further misconstruction by the Office of Attorney General, of the function of Regulation and the "fundamental fairness" purpose of the Administrative Procedure Act to be deferrential to the defender's Constitutional Rights.

The Administrative Procedure Act in Section 10-201 for Contested Cases declares its policy:

The purpose of this subtitle is to:

1) ensure the right of all persons to be treated in a fair and unbiased manner in their efforts to resolve disputes in administrative proceedings governed by this subtitle; and

2) promote prompt, effective, and efficient government

This Court of Appeals is constitutional bound and obligated to ensure the Governmental Executive Branch Office of Attorney General may never again be permitted to be used in Conspiratory Concerted Actions even against a single law-abiding Physician by ensuring that "search procedures of the person of Physicians" in Medical Practice be constitutionally protected by the restraint of a neutral judicial officer under recognised standard guidelines and only if preceded by a "lawful seizure" with probable cause; that the Medical Practice of a lawful Physician not be unlawfully seized.

Arkansas v. Sanders 442 U.S. 753, 99 S Ct 2586, 61 L Ed 2d 235 (1979) the Supreme Court confirmed that the mere reasonableness of a search , assessed in the light of the surrounding circumstances is not a substitute for the judicial warrant required under the Fourth Amendment.

The Exceptions to Warrant Requirement have been established where the Supreme Court had concluded the public interest required some flexibility in the application of the general rule that a valid warrant procedure is a prereqiusite for a search. These warrantless searches summarized by Justice Marshall majority opinion in Donvan v Dewey US 101 SCt 2534 (1981); by Kevin I MacKenzie "Administrative Searches and the Fourth Amendment: An alternative to the Warrant Requirement" Cornell Law Review 64 (1979), pp 864-871and by Kenneth F Warren: "Administrative Law in the American Political System"(1982) have been conducted with the Supreme Court approvals (1) when other Adequate Administrative Safeguards Exist Acceptable to Warrant functions to Protect Private Interests in the Prevailing Circumstances and Public Interests United States v Martinez 428 US 543 (1976); Dakota v Opperman 428 US 364 (1976)

(2) Closely Regulated licensed Businesses and Industries; **United States v Biswell, 406 US 311 (1972)** and Colonade Catering Corp v United States 397 US 72 (1970)

and Persuasively Regulated;

and Pervasively Regulated Businesses

None of the Exceptions apply in the present case of a normal requirement of an Administrative Search Warrant Requirement. **(Marshall v Barlow's Inc 436 US 307 (1978)**;See v City of Seattle, 387 US 541 (1967);Camara v Municipal Court, 387 US 523 (1967) at the point where Fourth Amendment Protection guarantee is operative and would have terminated the Conspiracy had a "tutored Constitutional Neutrality" in the interests of the People of Maryland being put in operation by the State Board.

Furthermore Maryland **SGA Section 10-215 Transcription of Proceedings** provides that: All or part of proceedings in a contested case shall be transcribed if any party

1) requests the transcription; and

2) pays any required costs

Pursuant to the above Statute and Supreme Court Common Law, (Citizens to Preserve Overton Park, Inc v Volpe, 401 Us 402 (1971) Petitioner requested

and urged recording of proceedings with the recorder already available, and a credible transcription of "Board Psychologist"Appropriate Examination" and was denied by Psychologist; contrary to law and constitution Amendment IV

This lack of Verifiable Reliability from Recording and Transcript in a Contested Case of the Board Psychologist Methodology where Petitioner had already identified Conspiracy and Concerted Physician unlawful actions is more evidence for Invalidation of the Psychology Report by Mapp v. Exclusionary Rule of the Supreme Court applied to the States by the Fourteenth Amendment. The act of psychological examination denying lawfully requested recording of the proceedings was an act of unlawful search and seizure of Petitioner's words and person in violation of the IV Amendment US Constitution.

Amendment I: Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech

Article IV Section 2 The Citizens of each State shall be entitled to all Priviledges and Immunities of Citizens in the several States

Amendment IV **The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated**

Amendment XIV Section 1 **No State shall make or enforce any law which shall abridge the priviledges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws**

In the total light of the above four Constitutional Statutes is the Right The PRIVILEDGES AND IMMUNITIES ENTITLEMENT CLAUSE of Article IV Section 2, as a unit, to a choice of Physician and to choose not to be examined by a Physician or Psychiatrist/Psychologist of a Hostile Religious persuasion. The State may not compel Secular Psychiatrist Examination on all Christian Physicians when this is specifically stated as repugnant constitutionally against "Free Exercise of Religion under equal protection of the law" of the fourteenth Amendment. To enforce a Psychiatry Examination on a Christian with "its secular humanism doctrine" that "the existence of God is an Illusion" is unconstitutional when refused on the Premise of the Free Exercise Clause of the Freedom of Religion.

In the joint treatment by the Supreme Court of School district of Abington Township (Pa) v. Schempp and Murray v. Curlett (Md) 374 U.S. 203, 83 S.Ct. 1560, 10 L.Ed. 2d 844 (1963) the majority opinion emphasized " the wholesome "Neutrality" of government which stems from a recognition of the teachings of history that powerful sects or groups might bring about a fusion of governmental and religious function or a concert or dependency of one upon the other to the end that official support of the State or Federal Government would be placed behind the tenets of one or of all orthodxies. This the Establishment Clause prohibits...And a further reason for neutrality is found in the Free Exercise Clause which recognised the value of religious training, teaching and observance and more particularly, the right of every person to freely choose his own course with reference thereto, free of any compulsion from the State. This the Free Exercise Clause guarantees. Thus as we have seen, the clauses may overlap". It is evident from the preponderance of evidence in the Record of this case, that the concerted conspiratory actions of the Office of Attorney General and the State Board with non-credible medical administrators of MGH conscripted the official support of the State Government behind the tenets of "secular humanism-based Psychiatry and Psychology" for the purpose of discrediting Prayers Pleadings to God Healings by compelling Petitioner by the Coercion/

Intimidation in Health Occupation Title 14Article Section 14-402 particularly Section 14-402(c) to an "Appropriate Examination" mischaracterizing the Personality of the Petitioner ". This the Establishment Clause prohibits. (Secular Humanism is recognised as a religion in Torcasso v. Watkins.) The Schempp Court quoting Zorach v. Clausson agreed that "the State may not establish a "religion of secularism" in the sense of affirmatively opposing or showing hostility to religion thus preferring those who believe in no religion over those who do believe"....."The place of religion in our society is an exalted one, achieved through a long tradition of reliance on the home, the church and the inviolable citadel of the individual heart and mind. We have come to recognise through bitter experience that it is not within the power of government to invade that citadel, whether its purpose or effect be to aid or oppose, to advance or retard. In the relationship between man and religion, the State is firmly committed to a position of Neutrality. Though the application of that rule requires interpretation of a delicate sort, the rule itself is clearly and concisely stated in the words of the First Amendment" Justice Stewart dissenting and identifying "the central value embodied in the First Amendment__and more particularly in the guarantee of "liberty" contained in the Fourteenth__is the

safeguarding of an individual's right to free exercise of his religion has been consistently recognised...."

The State may not compel a Physician to undergo a Psychiatry/Psychology Testing against his Christian religious belief and practice. The Establishment Clause Prohibits it---prohibits compulsion of the tenets derived from the "Religion of Secular Humanism" upon Christians. The Free Exercise Clause requires a Neutral Governmental Action of providing for the needs of Christians by providing Christian Psychiatrists and/or Pastoral Counsellors to satisfy any governmental interests. The Compulsion of Christians to undergo Psychiatry or Psychology Testings is a violation of the Establishment Clause of the First Amendment.

These Laws of the Constitution permit a formal legal acceptance of the Reality of Soul and Spirit of Man, by the Free Exercise Clause of the First Amendment as the issues of Soul and Spirit, Life and Death are frequently involved in the Practice of Prayers Pleadings to God for Healings, Good and Evil deeds and spirit persons, terms and derived terms so commonly stated in the Historical Record and vocabulary of the Legal System, of this Court

of Appeals of Maryland and of the the Supreme Court of the United States(Public Law 107-293-Nov 13th, 2002 findings No 12: quoting Justices Goldberg and Harlan in Schempp in which State Government compulsory school prayer was held unconstitutional: "But **untutored devotion to the concept of neutrality** can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it. Neither government nor this Court can or should ignore the significance of the fact that a vast portion of our people believe in and worship God and that **many of our legal, political, and personal values derive historically from religious teachings.** Government must inevitably take cognizance of the existence of religion and, indeed, under certain circumstances the First Amendment may require that it do so...") Freedom of Speech to **inspire** others Inspire being the act of pouring spirit and strength into another Unit member of the Federal Unit of the human race so that they may be strengthened and encouraged by the Spirit

Maryland SGA Title 10 Section 10-124 Evaluation of Impact

a) "Business" defined.- In this section, business means a trade, professional activity, or other business that is conducted for profit.

b) Required.-

1) Before a unit adopts a proposed regulation, the unit shall evaluate whether the proposed regulation has any impact on businesses

2) To evaluate the impact, the unit shall:

(i) on the basis of the sizes of the businesses that the proposed regulation might affect, divide those businesses into any classes that the unit considers appropriate for the proposed regulation; and

(ii) particularly consider:

1. the costs that the proposed regulation would impose on each class; and

2. the difficulty of compliance for each class

c) Action after evaluation.- **On the basis of the evaluation, the unit may adopt 1 or more regulations that apply differently to classes of businesses (**

Munn v Illinois 94 U.S. 113, 24 LEd. 77 (1877)

The Preamble of the Constitution of Massachusetts defining: "a body politic" is a social compact by which the whole people covenants with each

citizen, and each citizen with the whole people, that all shall be governed by certain laws for the common good" The Munn Supreme Court confirms that this does not confer power upon the whole people to control rights which are purely and exclusively private,.....but it does authorize the establishment of laws requiring each citizen to so conduct himself, and so use his own property, as not unnecessarily to injure another. This is the very essence of government and has found expression in the very maxim, *sic utere tuo ut alienum non laedis* [So use your own as not to injure others] From this source come the Police Powers, which, as was said by Mr Chief Justice Taney in the License Cases, 5 How. 583, " are nothing more or less than the powers of government inherent in every sovereignty....that is to say...the power to govern men and things," Under these powers the government **regulates** the conduct of its citizens one toward another, and the manner in which each shall use his own property when such regulation becomes necessary for the public good.

The principles upon which this power of regulation rests, in order to determine what is within and what is without its operative effect, from Common Law is the finding that "when private property is affected with a public interest it ceases to be *juris privalis* only. ...This was said by Lord Chief Justice Hale .....as an essential element in the law of property ever

since. Property does become clothed with a public interest when used in a manner to make it of public consequence, and affect the community at large. When therefore, one devotes his property to a use in which the public has an interest, he, in effect, grants to the public an interest in that use, and must submit to be controlled by the public for the common good, to the extent of the interest he has thus created. He may withdraw his grant by discontinuing the use; but, so long as he maitains the use, he must submit to the control...."

Article IV Section 1 provides: Full Faith and Credit shall be given in each State to the public acts, Records and judicial Proceedings of every other state. And Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Section 2: The citizens of each State shall be entitled to all Priviledges and Immunities of Citizens in the several States

Amendment VII: In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved,...

Amendment XV: The Right of citizens of the United States to vote shall not be denied or abridged by the United Stata or by any State on account of race, color or previous condition of servitude

Petitioner Record Extract E205 -E215

Petitioner Record Extract E259 -E261

Petitioner Record Extract E262 -E294

Maryland Statute: Health Occupation Article 14 Subtitle 1-401 Law

Litigation Expenses for Small Businesses and NonProfit Organisations

Whereas in general, the Administrative Procedure Act provides in Maryland SGA Section 10-224 of Contested Cases Litigation Expenses for small businesses and nonprofit organizations. "Business" is defined by Section 10-224(a) as a trade, professional activity, or other business that is conducted for profit. Section 10-224(c) identifies the grounds for Reimbursement Authorized- Subject to the limitations in this section, an agency or court may award to a business or nonprofit organiszation reimbursement for expenses

that the business or nonprofit organization reasonably incurs in connection with a contested case or civil action that:

1) Is initiated against the business or nonprofit organisation by an agency as part of an administrative or regulatory function;
2) Is initiated without substantial justification or in bad faith; and
3) Does not result in:

   i) an adjudication, stipulation, or acceptance of liability of the business or nonprofit organisation

   ii) a determination of noncompliance, violation, infringement, deficiency, or breach on the part of the business or nonprofit organisation; or

   iii) a settlement agreement under which the business or nonprofit organisation agrees to take corrective action or to pay a monetary sum

It is evident that Petitioner has fulfilled all grounds for a complete and just compensation. Moreover and specifically the Maryland Statute: **Health Occupation Article 14 Subtitle 1-401 Law** governs Recoveries against Medical Peer Bodies and Professional Peer Review Committee Activities under which the State Board of Physician is defined:

1) for the loss of his General Medical Practices in three locations, including the Practice of outpatient General Gynecology

2) Endocrinology Consultant Practice to Maryland General Hospital with over 50% of the patients who are Diabetic and requiring my SubSpecialist Endocrinology services as the only Diabetologist on Staff

3) Hospital Practice of Internal Medicine

4) Slander and Defamation of Character

5) Injury done to Family

6) Injury done to Religious Community by the State's Excess Actions and False Reports in order to Prohibit Prayers

7) Injury done to Petitioner's local Church and Ministry by the State's Website Publication of "Mentally and Professionally Incompetent" and a "lifetime of Narcissistic Personality Trait" for which the State alleged was dangerous to patients, and the public welfare of the People of Maryland

AWARD AMOUNT

An Award amount to include $58.00 million estimated business loss over 6years of State Negligence and Conspiratory Actions against Petitioner

i) the expenses incurred in the contested case

ii)court costs

iii)counsel fees of a total of 5 attorneys: $15,000 + $30,000 + $5000 + $2500 + $2500

iv) the fees of necessary witnesses

v) fees for Expert Endocrinology Witnesses Evaluation and Report

vi) fees for Expert Christian Psychiatrist Evaluation and Report

vii) fees for Expert Christian Psychologist

viii)fees for Christian Psychiatrist on Telephone stand-by Testimony Expert Opinion at ALJ Hearings

ix) fees for Christian Anthropologist/Psychiatrist on Telephone stand-by Expert Opinion at ALJ Hearing

x) fees for Investigations

xi)Expenses for recording and transcribing Proceedings and Testings and Evaluations in light of the Recognised Conspiracy amongst Physicians from the onset

xii) Financial penalty and deterrent against the State to persuade against further acts of unlawful search and seizures of persons and property.

Health Occupation Article Title 14 Title 1: Recoveries under SubTitile 1-402: SubTitle 1-402 (a) states Maryland State's Election regarding the Federal Act. In accordance with the Health Care Quality Improvement Act of 1986, the State elects not to be governed by the provisions of the Act that provide limitations on damages for suits brought under State Law against

medical review bodies, and to physicianss participating in professional peer review activities

Section 1-402(b) For suits brought under State Law, the State shall be governed by this subtitle

The State Board is defined as a Regulatory Board or Agency by Section 1-401(b)(1) under definitions of Medical Review Committees by Section 1-401 and is thus subject to Recoveries under Section 1-402 of Title 1 of Title 14 Health Occupation Article. Petitoner/Appellant therefore petitions for a just and complete compensation as demanded by the US Constitution and the Statutes of the State of Maryland.

Article III Section 3: The Congress shall have Power to declare the Punishment of Treason, but **No attainder of Treason shall work Corruption of Blood or Forfeiture** except during the Life of the Person attained

As this case confirms the exaggerated unrestrained actions of the Office of Attorney General, State Board of Physicians in concert with non-credible medical administrators to work Corruption of Blood and Forfeiture even with no attainder of treason, or acts against the State, with "the System

Errors" resulting in 'the tip of the iceberg' estimated 100, 000 deaths of "medical mistakes" per year reported by the Institute of Medicine Report in 2001 and cited by Maryland Secretary of Health Nelson Sabatini.(Reply Brief Appendix). The index malpractice case of unauthorized unwarranted Limb Amputation of patient Everton Cave (name used by permission) by Vascular surgeon Dr Mahmoud Annous was not investigated by the State Board, (Record Extract E011) and Petitioner's testimony under Oath in December 20th, 2000 and October 17, and 18, 2001 of unwarranted untimely loss of life due to easily treatable medical problems such as myxedema and diabetic limb infections inappropriately being treated by no thyroid replacement and Amputations respectively, in the medical practice at Maryland General Hospital, when investigated as mandated by Statute and Constitutional Obligation of the Satate Board would have prophylactically prevented further unnecessary deaths and the nosocomial HIV infection of Karen Turner. The conspiratory and concerted actions of the State Board with non-credible medical administrators in Prohibiting Prayers Pleadings to God Healings extended to deliberately overlooking their primary statutory duty of ensuring Treatment Effectiveness and Safety in the practice of Physicians by Evidence-based Outcome measures and Standard of Care in the Practices of the Physicians it Regulates. In ignoring Unauthorized and

Unwarranted Limb amputations and untimely deaths the State Board permitted and thus participated conspiratorily in the working of "Corruption of Blood" and Forfeiture of People's lives - the punishment for treason against the People of the State of Maryland.

That **Ex Parte Contacts** and Ex Parte Communications between the "non-credible" medical administrators of Maryland General Hospital and the State Board is confirmed by Secretary Nelson Sabatini to US Congressional Investigation Committee statements (Reply Brief Appendix) and the appointment of Dr John Manzari as head of MEDCHI, the Faculty of the Board, and letter of Dr Timothy Keays(Record Extract 039-040) that these Ex Parte Contacts influenced decision-making by the Board in conspiracy against Petitioner is also seen and to be judicially noticed in parallel influence upon other Oversight Regulatory Bodies by the medical administrators of MGH, and the actions of the Board in failing to adopt Regulation of Healings Prayers inspite of Treatment Effectiveness and Safety Evidence whilst concerted effort to discredit Healing Prayers were followed at MGH and IKNH; its failure and refusal to protect patients against unwarranted limb amputations even when so informed. The gravity of the capricious misconduct of the State Board of Physicians and the Office

of Attorney General (representing interests contrary to the People of Maryland) in this case sub juice and the activity at Maryland General Hospital is not to be underestimated, in departing from its specified role of Regulation it pursued "sting operations" against Petitioner and Healing Prayers associates in their separate and respective places of employment by other Physicians and Chiropractor physicians and knowingly and deliberately violated Constitutional laws to seek to discredit Pleadings Prayers to God Healings; administratively arresting Petitioner unlawfully and unconstitutionally searching on "a fishing expedition" for possible errors in clinical standard of care, particularly Depriving Petitioner of life, liberty and property, without due process of law, violating also its own administrative procedural standards, and it denied to Petitioner the equal protection of the law from the actions of non-credible medical administrators at MGH and at IKNH.

The Supreme Court in Owen v. City of Independence, Mo 445 US 622; 100 SCt 1398 (1980) holding that " A damages remedy against the offending party is a vital component of any scheme for vindicating cherished constitutional guarantees, and the importance of assuring its efficacy is only accentuated when the wrongdoer is the the institution that has been

established to protect the very rights it has transgressed. Yet owing to the qualified immunity enjoyed by most government officials....many victims of (municipal) malfeasance would be left remediless if the city were also allowed to assert a good faith defense. Unless countervailing considerations counsel otherwise the injustice of such a result should not be tolerated.....The knowledge that a municipality will be liable for all of its injurious conduct, whether committed in good faith or not, should create an incentive for officials, who may harbor doubts about the lawfulness of their intended actions to err on the side of protecting citizens' constitutional rights. Furthermore, the threat that damages might be levieds against the city may encourage those in policymaking position to institute internal rules and programs designed to minimise the likelihood of unintentional infringements on constitutional rights. Such procedures are particularly beneficial in preventing those "systemic" injuries that result not so much from the conduct of any single individual, but from the interactive behaviour of several government officials, each of whom may be acting in good faith...." It is evident from the above that the Executive Branch of the State of Maryland acting through the Office of Attorney General requires a strong and very definitive incentive to err always on the side of protecting the each state citizen's constitutional rights of Life, Liberty, Property even in the

course of pursuing the collective citizenry Rights and Public Interests __the first being only a coned down (micro) "holographic viewpoint" of the latter (macroview) but both subject to the same Authority "System Analysis" and same Laws. Injury to one citizen is not Public Interests, but a "holographic" federal injury to all. **Protection of each lawful citizen is Public Interest, one citizen at a time; each step multipying into a whole People."**

Whereas, from the historical viewpoint, financial deterrents, and ethical deterrents may not be sufficient, to deter "investigative and prosecuting Office of Attorney General or non-credible medical administrators", an adequate adjudicative judicial process by a detached **tutored constitutionally neutral judicial officer** able to define "Probable Cause" for administrative arrest in each situation or "search and seizure" and to define the limits of the Scope of Review of the Agency's or Peer Review Bodies' initial Actions, separate from outside of "the Offices requiring Administrative Discretion" of the prosecuting and investigative Office of Attorney General and "in assisting the final decisions" of the Physician's Peer Review Board would seem necessary to minimise further efforts to interfere with the Progress of Science and the constitutional Rights of other Physicians, in increasing Patient-centered Healing free from Ex Parte

Inflenuce of medical administrators, and in Protecting the Constitutional Rights of the People of Maryland and the US. This necessary HaElohim priestly Office function of diagnosis to Promote **"The Science" in action**, (Ezekiel 9:3,4) will not seek to Establish religion nor Prohibit the free exercise thereof, but will neutrally Promote Science and the convincing Power of Conviction, **encouraging "Scient Faith" in God** of each and all into lawful, humble, compassionate and persuaded convicts of God__which was and is the true goal of the US Constitution as it was given.

The Experience of Ad Hoc Arbritary and Capricious Administrative Discretion Errors from Maryland General Hospital resulting in System Errors and consequent individual and collective injury confirms the dangers of warrantless administrative arrests and inspections subject to Ex Parte influences. Individual Administrators are not immune, and neither can they be immune from Ex Parte influenes or pressures.

A consultatory mobile task force, constitutionally tutored neutral Judicial Reviewers, at the point of Fourth Amendment engagement, encouraging and facilitating scient actions and methodology by predetermination of Probable Cause and Scope of Review of proposed action (prior to actions of Investigators and Prosecutors) is urged as a Physiological System Analysis Prescription (operative in Endocrinology and by Godly principles Ezekiel

9:4,5) to promote System Motion in the Progress of Science. Facilitation is not Establishment. The Constitutional objective in maintaining lawful conduct by rewarding with constitutional guarantees is applicable to over 90% of citizenry; and regulating unlawful conduct with Police Power discouragement in the 10% or less of citizenry makes as great or greater a State public interest to provide the defence of constitutional guarantees to all citizens of the State at their point of need and so alleviate an overloaded formal Court and legal System. This Judicial Reviewers Task Force parallels the emergency Medical mobile task force engaging the problem at their point of need; it is not a priviledge but a necessity.

Respectfully Submitted

Dr Clement Momah

Petitioner/Appellant Pro Se

CERTIFICATION OF SERVICE

Dr Clement Momah, Petitioner/Appellant, hereby certifies that a copy of this Addendum to Response to Motion to Dismiss has been mailed to Petitionee/Appellee State Board of Physicians by first class mail to Attorney Noreen Rubin, Department of Health and Mental Hygiene, 300 West Preston Street, Suite 302, Baltimore, MD 21201 on November 4th, 2005.

Respectfully Submitted

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PETITIONER/APPELLANT

VERSUS

STATE BOARD OF PHYSICIANS
4201 PATTERSON AVENUE
BALTIMORE MD 21215

PETITIONEE/APPELLEE

IN THE COURT OF APPEALS
AT ANNAPOLIS MD

SEPTEMBER TERM 2005

PETITION Docket No 350

RESPONSE TO MOTION TO DISMISS

Date: October 20th 2005

Circuit Court No 24C02474

Court of Special Appeals No 391 September Term 2003

"EXPANDED SUSTITUTED JUDGMENT STANDARD OF REVIEW"

The purpose of the constitutionally derived Doctrine of Judicial Review is to correct abuse of governmental power and ensure justice to the individual and the People in the Constitutional framework of the United States The Court may restrain as well as initiate in course of service of Justice (As Professors Alpheus Mason of Princeton, William Beaney of Univ of Denver and

Donald Stephenson of Franklin and Marshall College: American Constitutional Law Seventh Edition) have stated. Access to Judicial Review is a fundmental right guaranteed by the Constitution of Maryland and the United States. Denial of Access to Justice on the basis of mandatory fees without frivolousness of a claim and in light of a meritorious claim in the interests of the People of Maryland impairs the Obligation of Contracts of State to the People of Maryland and to the People of the United States. The seriousness of the intent of pursuit of the claim as demonstrated by Petitioner, is not to be overlooked as Petitioner has already proven his serious intent and as also, as at now, completely compiled with all of the Courts Procedural Rules, Fees and Protocol. Thus the purposes of these fees of identifying a meritorious claims is fulfilled and the Court Procedures complied with. It will be unconstitutional to fail to obligatorily apply judicial review where the State has been shown to have acted arbitrarily, acted conspiratorily in concert with medical administrators proven non-credible by US Congressional Investigations and has been injurious to Petitioner by denying life, property and liberty and denied the free election choice of the People to a Modality of Treatment Effective and safe.

This Court of Appeals and the Court of Special Appeals has repeatedly confirmed its obligation to review the whole case at action where

constitutional issues are involved, overcoming the substantial evidence test and Agency special knowledge, (Maryland State Dept of Education v. Douglas Shoop Maryland Court of Special AppealsNo 614 September Term 1997 filed January 13, 1998 page 14) Under this more expansive review, having to "substitute our judgment" of the final decision maker at the Agency level, where the requirement to correct errors of Statutory Construction or Adoption and to correct and validate Statutes and Rules as are Constitutional. These concerns and issues are pertinent in this instant case, in part, compelling the Court's Judicial Review. This standard of Review is aptly called "the substituted judgement standard" Consequently we are not bound by the agency's statutory or legal conclusions(Maryland State Dept of Education v. Douglas Shoop Maryland Court of Special AppealsNo 614 September Term 1997 filed January 13, 1998 page 14 Modification or reversal of the agency's decision is only appropriate when the petitioner has demonstrated that substantial rights of the petitioner have been prejudiced by one or more of the causes specified in SGA Section 10-222(h). Id supra According we must examine the record to determine whether the ALJ applied the correct law and whether there was substantial evidence from which a reasonable mind could arrive at the factual conclusions reached by the ALJ Id supra

In its strategy of continously seeking to dismiss, evade and avoid the Serious Issues this case represents, the State Board (Respondent) has not articated the importance of this case to Public benefit of the People of Maryland.

As is further developed in Amended Petition for Writ of Certiorari, the issues raised by this case go beyond simply the conspiratory concerted efforts of the State Board with medical administrators of MGH and IKNH to stop Pleadings Prayer to God Healings and prohibit the Practice of the Faith-based Initiative and Grace Healing in violation of the Due Process Clause of the XIV Amendment and demonstrated by the preponderance of evidence standard for conspiracy.

That the State illegally and unconstitutionally conspired with non-credible medical administrators is also supported by United States v Inadi majority Opinion "Declarations made by conspirators in furtherance of their conspiracy will usually contrast sharply with statements made from the witness stand. These contextual statements made while the conspiracy is still in operation, shed light on the criminal enterprise that is seldom equalled by subsequent testimony of the coconspirators. This inability to replicate conspiratorial statements is made more severe by the fact that at trial the

former conspirators no longer have an alliance of interests: the declarant and the defendant will have changed from partners in an illegal conspiracy to suspects or defendants in a criminal trial, each with information potentially damaging to the the other 106 S Ct at 1126. Judge Powell asserted for the majority "the admission of conspirator's declarations.....actually furthers the Confrontation Clause's very mission...to advance the accuracy of the truth finding -determining process". The findings of the US Congressional Investigation Committee entered into evidence with The Maryland Secretary of Health and Mental Hygiene, Nelson Sabatini's testimony May 18th, 2004 and July 7th, 2004 (Reply Brief Appendix page 30-35) and the testimony of Dr Michael Hull and Dr Cedric Bryan (Record ExtractE) all support this Conspiracy assertion. Furthermore over 20 medical doctors and Board Expert Psychologist Dr Donner Lawrence on the witness list of Appellant failed to respond to sub poena for Cross Examination Witness Testimony as all "sudden left town" following the sub poenas, with none willing to assert allegations they had been compelled or intimidated into writing. The Board's Endocrinologist's Expert Dr David Brown's ex post facta biased Expert Opinions, and Dr Momah's own testimony of Dr Keays statements to him of a conspiracy between Dr Keays and medical administrators at MGH, to stop Faith based Healing Practice by arranging Appellant's Medical License

Suspension and Revocation. The lack of response to sub poena by Board's crucial turning-point witness-report Dr Lawrence, goes to add evidence of conspiracy as does Dr Tim Keays letter to the State Board BPQA (E039); stating concerted actions between these in the process of suspending Appellant License without Board Authentification of allegations from these medical administrators.

The case is thus highly meritorious for Judicial Review in view of the Injury to the People of Maryland by the State Board, the Attorney General Office and Medical Administrators at MGH and IKNH. University of Maryland and Johns Hopkins Hospital now run Integrated Medicine Programs since the Investigations of the US Congressional Committee, which further confirms objective evaluation by the People's Trustees would have adopted the Regulation of approving Pleadings/Prayers to God Healings as part of the Practice of Medical Healing PRIOR to the Prohibitory actions of the Board and medical administrators, following Petitioner's Request for adoption of Healing Prayers Regulation.

First is the Free Election Choice of every citizen of Maryland to choose what ever Physician and Healing method that is treatment effective and safe confirmed under peer review, and the Right of every citizen of Maryland to

be informed adequately of "medical breakthroughs" that are safe so that their "informed consent choices" are adequately made. This choice is weighed against by a group in the State Board of Physicians making these voting choices for the citizens of Maryland by limitation of apportionment: "by labelling, political and traditional conventional "secular humanism - based religion choices" upon the citizens of Maryland where each citizen finds themselves being denied excellence in the treatment methodology they seek to follow and may seek to follow are denied them by the actions of the State Board of Medicine in its Apportionment Construction of Healing Methods, instead of its Statutory duty of adoption of Regulation with its future effect, which provides for each "class of businessess" and each class of free Election Choice of the People of Maryland for Treatment Effective Methods that are safe and lawful.

A denial of this free Election choice, voting choice for a physician, and voting choice for Pleadings Prayers to God Healings would be subject to judicial remedy under the 15th Amendment of the US Constitution. Praying with patients is a lawful activity under the Constitutions of the US and Maryland Constitutions, and the State's Power does not extend to its Prohibition. Moreover, as presented by Psychiatrist Patricia Newton of Johns Hopkins Hospital (Record Extract E017-021) and Institute of

Medicine National Academy of Sciences Report by Mary-Jo DelVecchio Good et al from Harvard University (Record Extract E262-292) culture and racial and economic factors (which have always affected and are ingrained in the Practice of Medicine) do influence the choices of patients, especially black patients and the underpriviledged, many of whom desire Physicians who will pray with them for healing. The Report from the American College of Physicians: Ethics in Practice: Managed Care and the Changing Health Environment (Record Extract 205-215) also confirm Healthcare and Ethical Medical Practice must be Patient centered and Patient Driven. Any loss contradicting the free choice of a patient and a failure of the State to accomodate this, would infringe Equal Protection Clause of the XIVth Amendment of the US Constitution. "One Patient's choice may not be held 10times more worth than another" - to paraphrase Supreme Court Justice Harlan

In Gomillion v Lightfoot 364 US 399(1960) concerning an act of the Alabama Legislature changing the boundaries in the city of Tuskegee, the Supreme Court held that the 15th Amendment guarantee against racial discrimination justified judicial action. A majority of patients in the Healthcare delivery System are patients of color and the State Board's

actions of denial access to lawful Healing Modality of Praying Pleadings to God for Resurrection life, properly researched and greater appropriated for their benefit, either negligently or deliberately or otherwise denies mostly black patients of their rights to a praying Physician. An equal vote effect of patients choice of Physician and Healing Methods according to Informed Patient Consent practice is required by the Equal Protection Clause of the Fourteenth Amendment of the Constitution.

The principle of non-apportionment is declared in 1964 Wasberry v Sanders 376 US 1:1964 by the Wasberry Supreme Court: as much as practicable one man's vote…is to be worth as much as another's . This principle has also been applied in the Free Access to Treatment Act of Maryland. And in the SGA of "classes of businesses" principle. The State Board's absence of Neutrality in Apportionment exceeds its governmental People derived authority in compelling choice of Safe and Effective Treatment Methods that each patient unit chooses to make. Thus the State may not determine Patient Choice but it may determine that the Treatment Modalility chosen is Safe, is Treatment Effective and has been so proven by recognised Scientific Methods of "N-of-1 trials" for individual cases for Cases of compelling effectiveness or Randomised Control Studies in lesser effectiveness methods requiring Group statistics(see IOM National Academy of Sciences Report

Jan 12, 2005) ; and in so doing fulfills its own mandate. It may not invade the Physician-Patient Relationship and it may not invade the Intimacy of Relationship between God and Patient in the course of invoking God for Mercy and Grace. These principles are consistently articulated by the Supreme Court also in Griswold v Connecticut 381 US 479, 85 S Ct 1678, 14 L Ed 2d 510 (1965) in the novel scientific use of Contraception in Connecticut, in which the Supreme Court majority opinion confirmed "standing to raise constitutional rights of patients in a professional relationship with a Physician and physician-patient relationship lying within a zone of privacy, created by several fundamental constitutional guarantes; including concerning a (state) law which in forbidding the use of (contraceptives) rather than regulating their manufacture or sale, seeks to achieve its goals by means having a maximum destructive impact upon that (physician-patient) relationship. "Such law cannot stand in light of the now familiar principle applied by the Court that a governmental purpose to control or prevent activites constitutionally subject to state regulation may not be achieved it by means which sweep unnecessarily broadly and thereby invade the area of protected freedom" quoting NAACP v. Alabama - We deal with a right of privacy older than the Bill of Rights"

Equally important to the People of Maryland is whether their Trustees, the State Board may abuse their trust by delegating the Power and Authority given them, to others not so authorized, for the purpose of Cruel and Unusual Punishments and Fabricated Reports whilst the Trustees fail to protect identified Abused Patients suffering Unwarranted Amputations of Limb and Premature Cessation of Life reported to the State Board's attention without any consequent action on part of the State Board of Physicians whilst it maximized all efforts in seeking Summary Suspension of Innocent Physician and ex post facta seeking to justify its actions unconstitutionally and actions of the medical administrators at MGH and IKNH by a bias-ridden ex post facta Endocrinology Expert Opinion. This case thus help identify and correct the operation methods in the Medical System that put public health, the life and property of the People of Maryland at risk and helps explains real aetiology of Untimely and Premature Deaths in the Institute Of Medicine Report of 100, 000 patients dealths per year listed as "medical mistakes". The massive loss of life in the United States and Maryland by "System Errors" as identified by report of the Institute of Medicine National Academy of Sciences Report in 2000 and also quoted by State Board's Head, Secretary of Health of the Department of Health and Mental Hygiene of Maryland Nelson Sabatini to the US Congressional

Investigative Committee, and the State Board's failure to regulate rather than control, continues to perpertrate massive loss of public life.

Equally important to the People of Maryland is the Infringement of Physician's Individual Rights of Due Process Protection under the 14th Amendment as Physician's Business Property Rights under the Contract Clause. Also a denial of the Interests of the People of Maryland is an Impairment of the Contract Clause of Article 1 Section 10 (No State shall …pass any Bill of Attainder, ex post facto, or Law impairing the Obligation of Contracts) The failure to adopt Regulation of Pleadings Prayers to God Healings impairs the Obligation of Contracts denying the People of Maryland that which is to their benefit. Nothing shall prohibit or require the making reference to belief in, reliance upon or invoking the aid of God, or a Supreme Being in any governmental or public document, proceeding, activity, ceremony , school, institution or place. Nothing in this article shall constitute an establishment of religion (Article 36 Maryland Constitution on Religious Freedom)

Equally important to the People of Maryland is the Right to Judicial Review which has so far been denied to Petitioner/Appellant on the Merits of the

Case action of the State Board against Petitioner/Appellant, by having to overcome threshold bars contrary to the purposes of Adminstrative Review Process, including that of Judge Hammerman Disabled according to Rules by his Suicide publicized self-confession note.

The doctrine of Judicial Review as developed for Correctness of Arbitrary and Capricious use of Governmental power is not to be denied as a fundamental right derived from the Constitution, in light of the totality of this case especially as Petitioner has substantially complied with the Procedures of Court inspite of unethical conduct and abuses from some Officers of the Court, in a desire that this case not be heard; there has been no prejudice to the State Board by any actions or omissions on part of Petitioner/Appellant and Appellant had previously exhausted all his administrative remedies.

PETITION FOR WRIT OF CERTIORARI AT COURT OF APPEALS IS FILED ON TIME

Petitioner filed Petition for Writ on September 27th 2005: 15days plus 1day after mandate of Court of Special Appeals September 9th, 2005 timely according Rule 8-302 (a) which provides for 15days after the mandate of September 9th, 2005 and by Rule 1-203 (c): Construction, Interpretations of

Time Rules providing Additional three days for service by mail Rule 1-203(a) Computation of time after an act, event, or default- In computing any period of time prescribed by these rules, by rule or order of court, or by any applicable statute, the day of the act, event or default after which the designated period of time begins to run is not included....The last day of the period so computed is included unless: (1) it is a Saturday, Sunday or holiday, in which event the period runs until the next day that is not a Saturday, Sunday or holiday; or

(2) the act to be done is the filling of a paper in court. If

Rule 1-203 (c): Additional time after service by mail:- Whenever a party has a right or is required to do some act or take some proceeding within a prescribed period after service upon the party of a notice or other paper and service is made by mail, THREE DAYS shall be added to the prescribed period

Thus time computation of 15days from September 10th 2005 takes one to 25th Sunday and up to 26th Monday plus three days added by Rule 1-203(c) to the 29th of September, 2005. Kindly note 3 days added (and not time extension of 15day period). Either viewpoint is accomodated by the Petition to the Court of Appeals timely filed on September 27th 2005. Moreover

Court of Appeals visitor records confirm Petition filing had already been attempted on September 26th, 2005 by Petitioner.

Respondent's own signed Motion to dismiss was filed beyond the 15days required by the Rule 8-302 asserted by them seeking Motion to dismiss and their argument is thus without merit. Applying the Doctrine of Equitable Estoppel and Res judicata appropriately denies the State its motion to dismiss. (In Colao et al v County Council of Prince George's No 82 Septermber Term 1996 filed July 25th 1997) the Maryland Court of Appeals again confirmed the doctrine of substantial compliance stating that the battle is fought at the agency level. An omission, a rule violation not necessarily fatal. A deficiency regarded as a technical and nonprejudicial irregularity, **not affecting in any material way the orderly processing of the case,** and the petition could properly have been declared in "sufficient and substantial compliance" with the rule

UNDER CONSIDERATIONS FOR ENTITLEMENT TO WAIVER

Petitioner presents to the Court that the 3-Judge Panel of the Court of Special Appeals overlooked Res judicata:Collateral Estoppel or issue preclusion (United Book PressInc v Maryland Composition No 2637 September Term 2000 Filed December 3, 2001 pages 17-21; Agnes Moore

v. Nissan Motor Acceptance Corporation et al the Court of Appeals No 96 September Term, 2002 filed August 27th, 2003 pages 3-9 quoting Rowland v. Harrison, 320 Md 223, 577 A.2d 51 (1990)) of District Court Judge 's "actually litigated" Final Judgement finding of Indigency (Records Extract E638) and the totality of the circumstances controlled by RULE 1-325 and Courts and Judicial Proceedings Title 7 Section 7-201 when it affirmed the Court's own initiative September 24th 2003 decision to dismiss on December 31st 2003 and on June 29th 2005 as well as September 8th, 2005. The Court of Special Appeals Panel Judges' analysis and findings of fact were incomplete to make the decision. The Court of Special Appeals has stated in Kenneth v Mills Jan 5, 2000 : "This Court will not interpret a statute in such a manner that will render it "unreasonable, illogical, or inconsistent with common sense" quoting Edgewater Liquors, Inc v. Liston, 349 Md 803, 808,709 A.2d 1301 (1998)" The facts as set forth (Records Extract E565) are that the Court of Special Appeals made this decision to dismiss on September 24th, 2005 for non-payment of filing fees on the additional premise (Record ExtractE565) (3) and (4) that A Motion to waive Fees and Affidavit had not been filed by Rule 8-602 (a)(2) the appeal was not properly taken pursuant to Rule 8-201; Rule 8-201 provides Method of securing Review in the Court of Special Appeals (a) By Notice of Appeal

and (b) Filing Fees - At the time of filing notice of appeal in a civil case,...an appellant shall deposit the fee prescribed pursuant to Code, Courts Article Section 7-102 with the clerk of the lower court unless the fee has been waived by an order of the court or unless the appellant is represented by (1) the Public Defener's Office (2) an attorney assigned by Legal Aid Bureau or (3) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting **the financial eligibility criteria established by the Federal Legal Services Corporation or other Appropriate governmental agency.**

The Kenneth Court of Special Appeals opined that " an interpretation that requires more of an individual to gain access to our courts based on whether the person is represented by counsel may well violate the Equal Protection Clause of the Fourteenth Amendment of the US Constitution". An Appropriate Governmental Agency, the District Court Judge certification (Records Extract E638) of indigency fulfils financial eligibility criteria of Rule 8-201(b) and Appellant's Motion for Consideration for Entitlement for Waiver was filed with his Notice of Appeal on April 10th, 2003 and again on June 10th, 2003. So Appellant was infact in compliance with Rule 8-201

when the Court of Special Appeals Decision to dismiss was made on the Court's own initiative on the basis of Rule 8-201 on September 24th 2004.

Furthermore, The Kenneth Court of Special Appeals continues "Consistent with Rule 1-325, we simply hold that a trial court must make, in all cases involving relief pursuant to Courts and Judicial Proceedings Section 7-201(a), a determination of whether or not the case is frivolous". This, the December 31st, 2003 decision did not do, even though evidence was presented to it that the administrative procedure remedies had been exhausted at the ALJ and Board Exception Hearings, and the Appellant's case meritorious and with governmental agency certification of indigency the order dismissing appeal ought to have been rescinded according to Rule 8-602(c)(1).

The failure to respond by sufficient cause to the Clerk of the Court's letter of August 25th, 2003, (due to State action-induced unavoidability) for filing fees and for filing of appellant's brief before September 30th, 2003 was also just cause to rescind order to dismiss appeal by individual judge Order of September 24th, 2003 in a case with a determination of meritorious claim as presented to the Court

These merits to rescind Order of Dismiss (particularly the Collateral Estoppel of District Court Judge's final decision) were recognised by the May 5th, 2004 decision of the Court, acting Consistent also with the provisions of Rule 1-325 considering Entitlement to Waiver as a Motion for consideration for entitlement to waiver has been filed; the certification for inability to pay mandatory fees certified by governmental agency District Court Judge (Records Extract E638).

With filing of Notice of Appeal April 10th 2003, Petitioner had filed prior motion to the Court of Special Appeals for entitlement to waiver by indigency and inability to pay the filing fees at that time, and again on June 10th ,2003 and was thus entitled for Consideration for entitlement of Waiver for inability to pay filing fees PRIOR to being detained by the State for Pretrial Detention for inability to pay Excessive Bail. The inability to pay these fines and Court filing fees was certified by Distrct Court Judge finding (Records Extract E638) on review of Appellant's financial account depleted at the time as Appellant's Role as Travelling Minister, (during a windfall in financies), sustenance is dependent on at will Offerings and the Grace of his Hosts.

On Motion to Re-Open E Petitioner/Appellant had acknowledged "mistaken belief" of $50.00 filing inclusive of the required filing fees from a Grace worldviewpoint even though consideration for entitlement to waiver of filing fees and indigency, was pending determined by the Court of Special Appeals by Rule 1-325, in concert with District Court Judge Certification. Thus nonpayment of the additional $50.00 may not be enforced against Appellant whilst his case is clearly **Meritorious** and **not frivolous** and a determination was not made whether or not the case is frivolous was not stated according to Maryland Rule 1-325 and MD Statute Section 7-201(b)(2) of Courts and Judicial Proceedings Article by December 31st, 2005 Ruling on its mandate E626. Moreover an denial of the fundamental Right to Judicial Review, which is not pertinent in a frivolous action, is unconstitutional by Article 19 MD Constitution and US Constitution in a meritorious action brought before the Court.

Chief Judge Bell of the Court of Appeals has opinied that "Access to the Courts is a fundamental right in Maryland, as reflected by the fact that the concept is embodied in Article 19 of the Maryland Declaration of Rights"

MD Constitution, Declaration of Rights, (Walthier, et ux v. Soverign Bank September Term 2004 Filed April 20th, 2005). Art 19 provides:

"That every man, for any injury done to him in his person or property, ought to have remedy by the course of the Law of the Land, and ought to have justice and right, **freely without sale, fully without any denial,** and speedily without delay, according to the Law of the Land"

Where there has been no injury, the case is then clearly frivolous. The fact of injury done to him in his person or property is ground for a meritorius determination. And the case may not be dismissed.

This Access to the Courts, no doubt, is to ensure the fundament rights of Judicial Review and Judicial Remedies and Correctives especially of abuses of governmental power, to restore "freely without sale, fully without any denial, and speedily without delay, according to the Law of the Land.

"Where there is a specific enactment and a general enactment "which , in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its language that are not within the provisions of the particular enactment"" (citations omitted))

Appellant was not a Prisoner of the State of Maryland when this Action for Judicial Review was filed in the Circuit Court of Baltimore City demanding a Trial by Jury. Petitioner was detained by the State on account of inability to pay the rather exorbitant Bail for 110days, even though recognised as a professional (Physician and Minister) by the Commissioner who confirmed he was acting upon given instructions to detain Petitioner. The Prisoner Litigation Act does not apply to Petitioner's action and the motion for consideration for entitlement for waiver was not brought as an "inmate" or "prisoner". The Filing of Notice of Appeal on April 10th 2003 was accompanied by Motion for consideration of entitlement of waiver of costs and a Motion for Consideration for Waiver of Costs filed June 10th, 2003 before the State detained Petitioner on June 13th, 2003.

Nonetheless based on the detention center records of the Certifying Public Defender and the Financial Records of Petitioner at the time District Court Judge for Baltimore County found "inability to pay from indigency" (Records Extract E638) basing his opinion on the rather stringent Prisoner Litigation Act to findings of the Court and writings of the Public Defender with Statements confirmed under oath by Appellant to the District Court Judge

Section 5-1002 (c) of the Prisoner Litigation Act provides Waiver- A court may waive payment of the entire required filing fees for a civil action filed by a prisoner only on a a written showing under oath by the prisoner that:

(1) The prisoner is indigent

(2) The issue presented is of serious concern

(3) Delay in the consideration of the issues presented will prejudice the consideration of the claim

(4) The prisoner is not likely to accumulate sufficient funds to pay the required filing fee within a reasonable period of time; and

(5) The prisoner possesses a reasonable likelihood of success on the merits of the claim by the prisoner

Section 5-1002(c) of the Courts and Judicial Proceedings Article

The purpose of the Prisoner Litigation Act clearly is to deter frivolous claims and Considerations for entitlement of waiver of filing fees from prisoners, (Massey R L V Inmate Grievance Office No 2229 September Term 2002 filed December 9, 2003 page 3) a fact which clearly does not apply to this State Board versus Physician actions at the Court of Special Appeals and at the Court of Appeals especially where the issues are relevant

to the People of the State and Physician innocent of the charges of the State and the State had conspired with non-credible medical administrators.

Petitioner's request to the Court of Special Appeals for consideration for waiver for filing fees founded on at then present (windfall) financial conditions was to ensure continuation of his constitutional rights to a proper Judicial Review to correct the abuses of governmental police powers that the State Board of Physicians and the Office of Attorney General's Office had operated. This intention was demonstrated in paying all required fees in Motion to Re-Open and in Motion for Reconsideration. Clearly Petitoner was not frivolous in intent or action and had demonstrated his claim to be meritorious and the State allegations to be completely rebutted by the Evidences that the State Board had erroneously excluded, including Expert Endocrinology Opinion confirming Normal Standard of Care in all of Appellant's Patients without loss of standards, Normal Christian Psychology Evaluation and Christian Psychiatry Evaluations that not only rebutted State Expert claims but called to the impossibility of alleging "pride" of Narcissism in place of the Humility of Prayer in the State Expert opinions; and more importantly that the State Board's Exclusions of Rebuttal Evidence were Unconstitutionally unlawful according to Regulation COMAR

10.32.02.03E(8) and to "Matthews v. Eldrige" where the Supreme Court stated due process is flexible and calls for such procedural protections as the particular situation demands (Matthews vs Eldridge, 424 US 319, 334, 96 S.Ct 893, 902, 47L Ed 2d 18, 13 (1976)" to advance the accuracy of the truth-determining process 1986 United States v. Inadi 475 U.S. 106 SCt 112.

The September 24th, 2003 decision of the Court of Special Appeals by Rule 1-325 and Courts and Proceeding Article Section 7-201(b) and by Collateral Estoppel ( )was therefore an error of judicial discretion subject to rescinding since it had been based partly on an erroneous finding by the Court that no Motion for consideration of Waiver had been filed. The Motion for Consideration of Waiver precludes denying the motion without a finding of indigency or frivolousness. (Kenneth J,D v Mills T D Court of Special Appeals No 8496 September Term 1998 Decision filed January 5, 2000.) The decision to dismis presumed frivolousness absent Motion for Consideration of Waiver of fees in light of the Right to Judicial Review guaranteed by Common Law and the US and Maryland Constitutions. Pursuant to Courts and Judicial Proceedings Article Section 7-201(b) and Maryland Rule 1-325, the prepayment of fees may be waived upon a proper finding by the court.

The Kenneth Court Of Special Appeals continues "When requested, the (circuit) court is required to review the documents filed by Petitioner, and grant the motion if it finds that the petitioner is too impoverished to pay the fee and that the action is not frivolous Kenneth Court also quoting Torbit v. State 102 Md. App. 530, 850 A.2d 311 (1994) If the petitioner is proceeding pro se, no certification (of Attorney) is required and the Court may base its determination on the motion and the petitioner's affidavit. Kenneth quoting Torbit, 102 Md App at 534 If a court has insufficient information to make a determination, the court may either conduct a hearing on the matter or request that the petitioner submit additional information Rule 1-325(a) Kenneth also quoting Torbit at 534 The grant or denial of the waiver application is vested within the sound discretion of the trial court and will not be disturbed absent a clear abuse of discretion. Kenneth quoting Torbit, 102 Md at 536 . Kenneth continues that in Torbit the Court of Special Appeals found that it was an abuse of discretion for a trial court to deny a waiver, without meaningful explanation, upon which its decision could be adequately reviewed by Appellate Court Review.

(Respondent Apx)Docket Entry Number 0026000 of Circuit Court confirm that on Filed 06/16/03 Entered 08/15/03 "It is this 11th day of June 2003 by

the Court of Special Appeals. Motion Order Denied. There was no "meaningful explanation" and no request for conduct of a hearing on the matter or a request for submission for additional information. Petitioner urges that this decision of the COSA also be construed as an error of judicial discretion in the totality of the circumstances of this case that it failed to guarantee Appellant's Fundamental Rights to Judicial Review already violated by Circuit Court's Disability of Judge Robert Hammerman (Rule2-536 Civil Procedure of Circuit Court) by his own admission covering time of trial, stated having severe recent and remote memory defects and visual defects that must be weighed in the judicial performance and the Court's understanding of this case; 2-3 years of recent and remote memory losses as well as Central Visual losses self-described in his (Suicide Note)Dying Statement in Impending Suicide Death published in the Jewish Times, Washington Post and Baltimore Sun Series.

The Due Process Clause require fact specific invocations that rest upon broad principles of accuracy in factfinding, fairness to the accused, and the proper allocation of procedural burdens between the government and the accused (Professor Graham Lilly An Introduction to Law of Evidence Second Edition)

RIGHT TO TRIAL BY JURY

Majority Opinion page 31 assert Article 23 of the Maryland Declaration of Right, guarantees the right to a jury trial in civil cases under its discussion involving the waiver of a fundamental right- the right to trial by jury. Article 23 of the MD Declaration of Rights provides, in pertinent part, that "the right of trial by Jury of all issues of fact in Civil Proceedings in the several Courts of Law in this State……shall be inviolable preserved" Md Code (1958, 2003 Repl Vol), Article 23 of the Constitutions Article

that the consideration E566 and its Addendum E580-604

(3) Delay in the consideration of the issues presented will prejudice the consideration of the claim

Nevertheless, this Overlooks the issue of equitable estoppel and applicable remedies according to Rules of Privilege that the law recognizes as provided for in SGA title 10 Section 10-213(e) of the Administrative Procedure Act and has been argued in Appellant's Brief and Reply Brief

There is considerable collateral estoppel from the findings of the District Court Judge's findings that the Court Of Special Appeals ought to have factored in its determination to waive "prepayment of filing fees" whilst permiting or instructing Petitioner to comply as soon as he was financially

able. The State of Maryland being the plaintiff before the District Court and in this instant action. This appears to the legislative intent in the Construction of the Rules, and this intent was followed by the decision of May 5th, 2004 by the Chief Judge of the Court Of Special Appeals, whose decision was made in light of the whole case and its likelihood of merits; clearly, recognising the Petitioner claims are not frivolous and neither are they to be treated so by the Court without a prior determination of merit in concert with substantial compliance with the Procedures to guarantee constitutional mandated right of Access to Judicial Review.

In a Precedental decision in a similar but parallel case by the Fed Court of Appeals 3rd Circuit No 01-3747 and 01-3824 Opinion filed September 11, 2003: Belitskus, W M et ux v. State of Pennsylvania represented by Pizzingrilli K et ux challenging the mandatory nature of the filing fee coupled with the absence of an alternative means by which indigent candidates might gain access to the ballot box violated the Equal Protection Clause of the Fourteenth Amendment. The 3rd Circuit citing analysis based on Supreme Court jurisprudence regarding Access identified as ("the primary issue in (this) case is the absence of a reasonable alternative means

of ballot access") quoting the Anderson Supreme Court 460 US at 805 (For even when pursuing a legitimate interest, a State may not choose means that unnecessarily restrict constitutionally protected liberty……If the State has open to it a less drastic way of satisfying its legitimate interests, it may not choose a legislative scheme that broadly stifles the exercise of fundamental personal liberties) The 3rd Circuit thus concluded that mandatory filing fee, as applied to (Stith) despite State legitimate interests as justification for the mandatory filing fee, clearly violates the Equal Protection Clause of the Fourteenth Amendment

Thus the December 31st 2003 in affirming the September 24th, 2003 decision also erred in that it did not confirm its determination of meritorious or frivolous Pleading despite the "Nonpayment of filing fees" after Petitioner had already filed "Motion for Consideration for Entitlement to Waiver" with Notice of Appeal and again with Filing of Information Report but this was not taken into Determination in the September 24th, 2003 decision or the December 31st, 2003 decision. As the Merit of the case was presented to the December 31st, 2003 Court, its decision under Rule 1-325 and Court and Judicial Proceedings Subtitle 7-201 without determination of merit or frivolousness, is subject to Rescinding.

In Re-Opening and Reinstating Petitioner 's Appeal according to Rule 1-325 and Court and Judicial Proceedings Section 7-201 Court Of Special Appeals Chief Judge decision of May 5th, 2004 recognised meritorius Appeal with probable likelihood for reversing the Injury done to Petitioner's Life, Property and Liberty and even more importantly the Court's Order was consistent with granting Access to Judicial Review in an issue of great importance to the People of Maryland in confirmation of not impairing the Obligation of Contracts Clause and in Equal Protection of Petitioner's fundamental right to Judicial Review under merits of the case.

The three Judge Panel of Decision of June 29th, 2005 failed to focus on the primary issue in its analysis, if the case presented before it is meritorious, and given this, if there are alternative avenues to ensure Access to Judicial Review, and upon request, the Court is required to review the documents filed by the Petitioner, and grant the motion if it find that the action is not frivolous and that the petitioner is too impoverished to pay the filing fee. Here the findings of the District Court of Baltimore City of Indigency under stricter rules under detention (Prisoner Litigation Act) provide Estoppel. It is note worthy that this Action at Court and Motion for Consideration for

waiver predated State's detaining indigent Appellant by excessive bail, and consequently Prisoner Litigation Act does not apply in the analysis.

In granting State Board's Motion to dismiss based on Maryland Rule 8-602(c)(4): No further Reconsideration by the Court- When an order dismissing an appeal is reviewed by the Court on motion filed pursuant to **this section**, the moving party may not obtain further reconsiderations of the dismissal **pursuant to Rule 8-605**.

However **Rule 8-303** Petition for Writ of certiorari permits a review of September 24th, 2003 decision as it was based on erroneous premise and findings of fact, in light of the Petitioners/Appellant's invoking Considerations for Entitlement to Waiver: Rule 1-325 and Court and Judicial Proceedings Section 7-201 and Rule 8-201(b) and by District Court Judge Certification of Indigency complying with Rule 8-201 upon which the decision to dismis had been grounded. Thus the rescinding of decision of Court: September 24th, 2003 is appropriate and the Mandate of January 12th 2004 re-called appropriately by the Chief Judge's May 5th, 2004 Order. All Decisions of December 31st, 2003, June 29th, 2005 and September 8th, 2005 based on September 24th, 2004 decision require appropriate rescinding and the September 9th, 2005 Mandate of the Court of Special Appeals to be

recalled and the Appeal reinstated for the hearing and Court Decision on the Merits of the Case, which constitutionally and as a matter of law are in favor of Petitioner/Appellant and the People of the State of Maryland and the People of the United States.

Petitioner further requests financial compensation, restoration healing and relief compensation Claim is to be set by the Court or by Jury according to Law governing recoveries against medical review bodies and professional peer review activities Health Occupation Article Title 14 Subtitile 1Section 1-402 as the State Board of Physicians is liable for the financial compensation of Appellant for loss of his Medical Practice Businesses at three locations (MGH, at IKNH and at Lanham) following State Board's abuse of the Peer Review Processes of Section Petitioner also requests financial compensation for the Public slander, Public humiliation, Religious Injury Infliction by Compulsory Psychiatric Examination against his religious Beliefs, harassment by State officials and the pain inflicted upon Petitioner's family and family name by State fabrications. Petitioner requests any order from the Court as required for Additional Information as necessary to make a full and informed determination of Petitioner Injury Claims and a full and just compensation

focused December 31st 2003 Decision the Court of Special Appeals 3 Judge panel failed to determine whether the case is meritorious and not frivolous and if this is so whether there were alternative remedies Rule 8-602c) provides for rescinding the Court's order to dismiss where the Court is satisfied that compliance with its Rules will be satisfied within a time prescribed by the Court. Moreover Rule 1-201 Rules of Construction provides

(a)these rules shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. When a rule, by the word "shall" or otherwise mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules or statute. If no consequences are prescribed, the Court may compel compliance with the rule or may determine the consequences of the

noncompliance in light of the totality of the circumstances and the purpose of the rule.

(c) Effect on common law and statutory provisions-Neither these rules nor omissions from these rules supercede common law or statute unless inconsistent with these rules.

When the Maryland Rules deal with the same subject matter as a statute, they are to be construed so as to harmonise with each other and not produce an unreasonable result" Johnson v State 274 Md. 29, 41, 333 A. 2d 37 (1975) In order words, the rule and the statute together outline the procedure by which an indigent plaintiff may seek the court's waiver of the prepayment fees.Kenneth Court of Special Appeals.

Massey Court page 3 quoting Dep't of Natural Res v. France, 277 Md. 432, 461-62, 357 A.2d 78, 94-95 (1976)

"Where there is a specific enactment and a general enactment "which , in its most comprehensive sense would include what is embraced in the former, the particular enactment must be operative, and the general enactment must be taken to affect only such cases within its language that are not within the provisions of the particular enactment"" (citations omitted))

Appellant did do as the Procedural History confirms when reviewed by the May 5th, Decision of the Court of Special Appeals to re-instate for Appeal, Consistent with Rule 1-325 and Court and Judicial Proceedings Section 7-201.

The Interests of the People of the State in the Hearing of this case and in determination of the value of Pleadings Prayer to God Healings rightfully supercede the rules of the Court, which constitutionally derives its Powers from the supreme power of the People.

1) Whether Additional relevant evidence post-decision, in a Maryland Administrative Procedure Hearing, is adequate inducement and provides equitable estoppel to re-review the decision of the Unit: Agency, and Court in the light of the Additional Evidence provided, and whether common law and statutes do overcome any inconsistent rules of the unit
2) whether the Court of Special Appeals erred in its Judicial discretion in dismissing Appeal on Dec 31st 2003 and June 29th 2005, September 8th, 2005 failing to construe the Rules of Court Operations to secure fairness in administration, elimination of unjustifiable expense and delay,

overlooking estoppel, the construction of rules accordingly in the light of the totality of the circumstances, the flexible procedural protections as the particular situation demands, and the purpose of the Rule, and whether these rules supercede common law or statute inconsistent with these rules Rule 1-201 Rules of Construction

3) Whether the Court of Special Appeals erred overlooking the grounds for entitlement to the waiver, as set forth by Rule 1-325, and documented confirmation of Indigency finding by District Court Judge with Petitioner then unable by reason of poverty and unavailable by detention of orders of the State Attorney General's Office, to pay those costs of filing, and without requesting explanation or supplementation when the request for Appeal Process was demonstrated meritorious and not frivolous

Petitioner/Appellant Dr Clement Momah, petitions the Court of Appeals for Writ of Certiorari for stay of mandate of the Court of Special Appeals, Re-Opening of Appeal, the formal entering and taking of all the Additional Evidence presented by Petitioner/Appellant pursuant to State Government Article 10 Section 10-222(f)(1)-(4); a consequent stay of the final decision of State Board of Physicians and a Full Hearing of the Merits of this

Administrative Procedure Act case brought by the State Board of Physicians against PetitionerAppellant, following inclusion of Healing Prayers in His Medical Practice, according to Informed Consent of the patients, and a prior effort at clarification of the Board's legal policy concerning healing payers. Dr Clement Momah further petitions this Court for a formal approval of the Practice of Healing Prayers as Good Medical Practice based on all the evidence submitted- as already approved for the Board of Professional Counsellors and Therapists under Title 17 of the Health Occupation Code. On account of initial **Error of Judicial Discretion to Exclude** Evidence that Regulation COMAR 10.32.02.03(E)(8) AND COMAR 10.32.02.03(E)(7) PRECLUDE exclusion of: the exclusion of Appellants Competent Rebuttal Evidence of Witnesses and Documents for impeachment and rebuttal, that completely exonerates Appellant, this case has progressed along judicial review and Appellate Courts, requiring Correction of initial Abuse of Judicial Discretion. Failure to recognise that the reach of COMAR 10.32.02.03(E)(4) demanded in Motion by Board is already curtailed by COMAR 10.32.02.03(E)(8) and COMAR 10.32.02.03(E)(7), has led to application of substantive evidence test to only evidence presented by the Board, whilst Appellant's Rebuttal evidence and Documents had been excluded contrary to law. The nature of the error was called to the

Administrative Law Judge's attention whose judicial weighing proscribed any unfair prejudice to the Board for adequate time in preparing interrogatory questions for rebuttal witnesses and documents. Overlooking equitable estoppel and applicable remedies according to Rules of Privilege that the law recognizes as provided for in SGA title 10 Section 10-213(e) of the Administrative Procedure Act, the Administrative Law Judge at the Administrative Hearings and the State Board of Physicians at its Exceptions Hearings denied jurisdiction to hear Dr Clement Momah's experts witnesses and include all documents produced particularly those for rebuttal and impeachment, and especially the Maryland General Hospital Medical Staff By-Laws [by the Board's own witnesses (Dr Michael Hull) already incorporated into the Record by Reference: SGA Title 10 Section 10-213g(2)] controlling of answers to questions on Application Forms to which misstatements or errors of understanding from Dr Momah on his Application Form answers, had been supposed by the Board attorneys. Thus a hearing on the full merits of the case as provided for in the Administrative Procedure Act State Government Article Title 10 has not been afforded Appellant. The evidence provided by Appellant completely exonerates Appellant from allegations of the Board [as the Board will confirm with taking Additional Evidence according to SGA Title 10 Section

10-222(f)] and confirm the value of incorporating Healing Prayers in Medical Practice as Appellant had inquired of the Board prior to doing so in his Practice based on the extensive published studies of the Efficacy of Healing Prayers.

CONTENTS

ADMINISTRATIVE LAW JUDGE PROPOSED DECISION

January 16th, 2002

DECISION OF THE STATE BOARD OF PHYSICIANS

July 25th, 2002

JUDICIAL REVIEW OF ADMINISTRATIVE AGENCY DECISION

ACTION IN THE CIRCUIT COURT

1. March 11, 2003: Appeal dismissed under premise as stated by Judge that the Board had more than substantial evidence to suspend and revoke Appellant's Medical Licence

2. The Court restricted itself to only the Substantial Test; and did not apply a necessary prior Test of legal correctness; the Court did not weigh judicial error of exclusion of rebuttal witnesses and documents by both Administrative Law Judge and the Board of Physicians' Exceptions Hearings contrary to Regulation COMAR 10.32.02.03(E)(8) and COMAR 10.32.02.03(E)(7) and contrary to Rules of Evidence of the Administrative Procedure Act Section 10-213(a)-(i) of Title 10 State Governmental Article Moreover contrary to SGA Title 10 Section 10-222(g)(3) that provides: On request the court shall: i) hear oral argument; and ii) receive written briefs. This title also provides Section 10-222(g)(2): a party may offer testimony on alleged irregularities in procedure before the presiding officer that do not appear on the record. Thus Judge Hammerman's denial of Appellant the leave to testify of Error of Judicial Discretion Exclusion of Rebuttal Evidence was a denial of Due Process of Law of the Judicial Review Procedure, and a denial of the claims of Appellant.(Section 10-222(g)(1)-(3)

DECISION BY THE COURT OF SPECIAL APPEALS

1. September 24th, 2003: Appeal dismissed for failure to pay the requisite filing fee following

Notification by letter dated August 25th, 2003 that appeal would be dismissed if the filing fee or Motion to waive fees and affidavit were not received by September 5th, 2003

2.Appellant had been unavailable to receive Notification at his address having been detained by the State of Maryland for suspended Driving privilege for an unpaid seat belt ticket and released only after Order to Dismiss was entered by Court of Special Appeals.

Appellant had already motioned the Court of Special Appeals on June 16th 2003 to waive Court Costs prior to being detained, and subsequently provided confirmatory evidence to the Court of then contemporaneous finding of Indigency from the District Traffic Court. (Appellant Record Extract E638)

3. A Panel of Court of Special Appeals have determined that the Court of Special Appeals by its own Rule (Maryland Rules 8-602(c)(4))is without the Authority to Recall its mandate after Motion for Reconsideration has been denied, and that there be no further Motion for Reconsideration in the same court, therefore have dismissed the Appeal

Nevertheless, this Overlooks the issue of equitable estoppel and applicable remedies according to Rules of Privilege that the law recognizes as provided for in SGA title 10 Section 10-213(e) of the Administrative Procedure Act and has been argued in Appellant's Brief and Reply Brief

JUDGMENT OF CIRCUIT COURT DID NOT ADJUDICATED ALL CLAIMS IN THE ACTION IN THEIR ENTIRETY

Disability of Judge Robert Hammerman (Rule2-536 Civil Procedure of Circuit Court) by his own admission covering time of trial, stated having severe recent and remote memory defects and visual defects that must be weighed in the judicial performance and the Court's understanding of this case.

Petitioner also petitions Judicial Notice of published Suicide Report and Suicide Note of Judge Robert Hammerman indicating diagnosed Macular Degeneration with Central Visual Loss making clear reading from the Central Vision exclusive from the Macula most difficult, and writing and signature even more difficult. The Suicide Note was mailed to 2200 recipients and published in several newspapers in its entirety.

Judge Hammerman's self description of moderately Severe Memory Losses for 1 to 2years predating his adjudication of this case(2 to 3years at time of writing his suicide note in November 2004) questions the competency of his exercise of "judicious adjudication" of all claims in their entirety; and provides a medical reason for his 'unusual' conduct of the trial and a refusal to permit Appellant any presentation of "judicial error exclusion rebuttal and defense witnesses" or Appellant's right to dismiss Counsel, unprepared and thus with incompetent performance.

Rule 2-536 provides for grant of a new trial, replacement by another Judge or such other relief as justice requires

Consistent with this self admission, Judge Hammerman did not sign or provide a written judgment to the Clerk's Office of the Circuit Court and none was received by appellant or noted by appellee, State Board of Physicians. Rule 2-601(a) provides that a judgment is effective only when so set forth and when entered as provided in section (b) of this Rule. Whereas the judgment is entered by the Clerk on the Court Docket, there is no written and signed judgment by Judge Hammerman and the two conditions for its effect according to Rule 2-601(a) are not completely fulfilled.

Appellant therefore petitions the Appellate Courts that the final decisions at the Administrative Agency Level - the decisions of the State Board of

Physicians are the decisions subject to Appellate Judicial review as has been repeatedly stated by the Court of Appeals, confident that Appellate Review will be complete and correct judicial exercise of wise judgement.

DATES OF JUDGMENT OF THE COURT OF SPECIAL APPEALS TO BE REVIEWED

June 11th, 2003	Apx on Respondent Appendix
September 24th, 2003	E565 on Appellant's Record Extract
December 31st, 2003	E625 on Appellant's Record Extract
Mandate January 12th, 2004	E626 on Appellant's Record Extract
May 5th, 2004 Recalling Mandate	E639 on Appellant's Record Extract
June 29th 2005 Dismissing Appeal	

FINAL MANDATE OF THE COURT OF SPECIAL APPEALS

September 9th 2005

QUESTIONS PRESENTED FOR REVIEW

4) Whether Additional post-decision relevant evidence in a Maryland Administrative Procedure Hearing is adequate inducement and provides

equitable estoppel to re-review the decision of the Unit: Agency, and Court

5) Whether the Court of Appeals has the Authority to recall mandate of the Court of Special Appeals

6) Whether a rule of the Court of Special Appeals which is substantive and creates the right [a condition precedent] "can be waived if there is sufficient evidence of inducement and equitable estoppel under Maryland administrative law as was also determined by the Chief Judge of the Court of Special Appeals on May 5th, 2004 Order.

    a) Whether the unavailability of Appellant (Dr Clement Momah) during the overlapping-period of detention by the State of Maryland, the evidence of confirmation of then Indigent status by the District Court, contemporaneous with decision of Court of Special Appeals to dismiss on September 24th 2003 for nonpayment of Court Costs upon a motion by Appellant for costs waiver; and Appellant's subsequent satisfactory compliance with the procedures of Court of Special Appeals; constitute equitable estoppel and a waiver of substantive statute of a Rule of the Court [(Maryland Rule 8-602(c)(4)] concerning the Court's reversal of Motion of Reconsideration with an Additional post-decision relevant evidence of indigency.

7) Whether the decisions of the Board resulting from an unlawful procedure against Petitioner/Appellant are subject to reversal and modification

8) Did the Administrative Law Judge commit error when he denied Appellant's Rebuttal Witnesses and Documents

CONSTITUTIONAL PROVISIONS, STATUTES, ORDINANCES, REGULATIONS

Constitutional Provisions

US Constitution Amend VI

US Constitution Amend I

the Contract Clause of Article 1 Section 10 (No State shall …pass any Bill of Attainder, ex post facto, or Law impairing the Obligation of Contracts)

US Constitution Amend XIV

Equal Protection Clause of the XIVth Amendment.

US Constitution Amendment XV

MD Constitution, Declaration of Rights, Article 19

MD Constitution, Declaration of Rights, Article 23

Maryland Constitution Article 36

MD Code (1958, 2003 Repl Vol), Article 23 of the Constitutions Article

Statutes

State Government Article Title 10 Section 10-222(f)

State Government Article Title 10 Section 10-222 on Judicial Review

SGA Title 10 Section 10-213

SGA Title 10 Section 10-213(e)

APA Section 10-222(h)(3)(vi)

Maryland Health Occupation Code Ann Section 14-402

Maryland Health Occupation Code Ann Section 14-401(e)

SGA Title 10 Section 10-222(e) and (f)

Ordinances

Fed R. Evidence 803-4

Rule 8-602(c)(4)

Rule 8-605

Maryland Rules 8-302(a)

Rule 8-303

Regulations

COMAR 10.32.02.03(E)(8)

COMAR 10.32.02.03(E)(7)

COMAR 10.32.01.06.(E)(1)(e)

COMAR 10.32.02.03(E)(4)

COMAR 10.32.02.02(14)

Cases Cited

1)Court of Appeals on Engineering Mangement Services Inc v Maryland State Highway Administration No 71 September Term 2002 pages 30-31 quoting the Court of Special Appeals in Ohio Cas Ins Co v. Hallowell, 94 Md App 444, 456-59, 617 A.2d 1134, 1139-41 (1993)

[(Eng Mgmt Serv v MD State Highway Ad 375 Md 211, 235 825 A2d 966, 980 (2003)]

2) Gigeous v Eastern Correctional Institute 363 Md 481, 496, 769 A2d 912, 921 (2001)

3) Dept of Health v Campbell, 364 Md 108, 771 A.2d 1051, 1060 (2001)

Gomillion v Lightfoot 364 US 399(1960)

As Professors Alpheus Mason of Princeton, William Beaney of Univ of Denver and Donald Stephenson of Franklin and Marshall College: American Constitutional Law)

STATEMENT OF THE FACTS

On January 27th 1999, in reply to inquiry on the State Board of Physicians position on Healing Prayers, Appellant received letter from the Board (E003 Record Extract) confirming Healing Prayers as Complementary Medicine. With incorporation of Prayers in Appellants Medical Practice with no loss of clinical standards in Patient Outcomes, Appellant's Practice came to be scrutinized and allegations of loss of clinical standards, unprofessional conduct, 2 false answers on Application Forms and inappropriate use of Prayers in the workplace made from index Hospital Maryland General Hospital; suspension of clinical priviledges during Investigation triggered Board Investigation of Appellant first by Psychiatric and Psychological Testing without appropriate indication. The results were considered by Board Psychiatrist satisfactory to continue the practice of medicine. With further suspension of Appellant's clinical priviledge by an affiliated Nursing Home: Irvington Knoll Nursing Home triggered by allegation, by a family practice physician, of loss of standard in management of "low blood sugar" of a diabetic patient in the area of Appellant's Internal Medicine and Endocrinology SubSpecialization, the Board Psychiatrist reversed his expert opinion of Appellant's safety at Medical Practice, and the Board summarily suspends Appellant's Medical License on December 20th 2000 holding the

Family Practice Physician opinion more credible than Appellant Internal Medicne and Endocrinology Subspecialization opinion, contrary to Board Regulation COMAR 10.32.02.02(14) on "the area of medical specialty most normally concerned with the medical act in question, and the practitioner of which area most likely familiar with the risks and benefit of that act" . An Administrative Law Judge Hearing on October 16-18th, 2001 excludes Appellant's Rebuttal Witnesses and Documents, and basing his findings of fact only on Board allegations and recommendations, proposed Suspension and Revocation of Medical License of Appellant on January 16th, 2002. This Proposal is accepted following the Boards' Exception Hearing in April 22nd 2002 in which Appellant's Rebuttal Witnesses and Documents continue to be excluded. Final Board Decision is made July 25th, 2002 to Suspend permanently and Revoke Dr Clement Momah's License because of a belief expressed by Board Psychiatrist that as Dr Clement Momah was resistant to accepting his alleged diagnosis of lifelong Narcissistic Personality Trait, he was therefore not amenable to clinical therapy, therefore his Medical License be revoked until he believed in the diagnosis. Appellant had demonstrated by Evidence entered into the record at both the Administrave Law Judge Hearing and the Board's Exceptions' Hearing that the Psychologist Report pivotal to the recommendations and decisions did

not reach standards for evaluation for Personality. These were confirmed by both Christian Psychologist and Christian Psychiatrist Reports that found no abnormality to preclude the practice of Medicine.

Failure by the Board to produce its most relied on declarant report witness for Trial Confrontation without demonstration of unavailability where utility of trial confrontation was certain (Fed Rules of Evidence 803(4) the Confrontation Clause US Constitution 6th Amendment) goes to demonstrate the Board's apprehensions that the Psychology Report had been derived under adverse and disputed conditions and the disputed interpretations of the testings by the psychologist and the reversals of Diagnosis and its implication would not stand up to necessary Trial Confrontation for its Authentification.

The Board's witness' psychology report (obtained under controversial and contested circumstances) had been pivotally upon Board's decision to revoke Appellant's Medical License, even reversing the diagnosis of Board Psychiatrist with his own admission of superior diagnostic ability over Psychologist, yet the Board did not bring to trial this declarant (Board psychologist) for confrontation contrary to Fed Rule of Evidence 803(4) and the US Constitution 6th Amendment. Appellant has provided abundant evidence that the Board's expert psychologist report did not attain published

standards of Personality Evaluation (Appellant's Record Extract E032 and E031). Moreover, Evaluations and Appropriate Christian Psychologist and Christian Psychiatrist reports have also completely refuted the claims of the Board's psychologist. (Appellant's Record Extract E016 and E017-021). Regulation COMAR 10.32.02.03(E)(8) provides for rebuttal evidence and documentation with no time limitations. State Government Article Title 10 Section 10-222(f) Judicial Review also provides for Additional Evidence before Agency

Appellant appealed to Circuit Court for Judicial Review with Judge Robert Hammerman on March 11th, 2003, and Judge Hammerman concurred with the Board based on the Substantial Test of admitted Evidence. Appellant's was denied Due Process of Law as he was denied presentation of "Judicial Error in excluding Rebuttal and Impeach Evidence not subject to exclusion". Judge Hammerman's Opinion is entered in Circuit Court Docket March 14th, 2003 and Appellants Appealed to the Court of Special Appeals on April 10th, 2003. However no written or signed copy of Judge Hammerman's Opinion was seen by the Clerk's Office

On June 10th, 2003 Appellant filed Motion to waive Court Costs based on Indigency, and whilst preparing the affidavit, Appellant was arrested and detained 110days for "Driving with a Suspended Driving Priviledge" from

an outstanding Seat Belt ticket. Appellant is released from detention after the September 25th 2003 decision to dismis of the Court of Special Appeals. Appellant's Motion to Reconsider and affirming Indigency at the time of September 25th 2003 decision was denied December 31st 2003. Mandate issued January 12th 2004. Motion to Re-Open Appeal with documented post-decision evidence of Indigency accompanied by full payment of all fees was filed Febrary 10th 2004 and with submission of Additional Evidence to Court confirm Normal Personality and Mental Status Examination by Christian Psychologist and Christian Psychiatrist. Motion to Re-Open granted May 5th 2004 Order, according to Administrative Procedural Rules for Additional Evidence, confirming recalling of Mandate. Public Evidence becomes available of Professional Misconduct and Fabrication of Lab resutlts amongst Medical Administrators at index hospital Maryland General Hospital with same Administrators who had raised false reports against Appellant been forced to resign, and publically confirmed as untrustworthy by US Congressional Investigative Hearings.

Board filed Motion to dismiss challenging the Authority of the Court of Special Appeals to recall its Mandate and was denied without prejudice with permission to raise motion to dismiss in its Brief.

Briefs were final in February 15th 2005 and Court of Special Appeals Panel of Court granted Motion to Dismiss June 29th 2005 citing Rule 8-603(c)(4) (No further Reconsideration by the Court; the moving party may not obtain further reconsideration of the dismissal pursuant to Rule 8-605in the Court of Special Appeals: Reconsideration in reference to December 31st 2003 Court decision). The Court of Special Appeals has further graciously declined a Reconsideration of its June 29th 2005 decision and issued its Mandate September 9th,2005.

Section 10-222(f) provides

(1) Judicial review of disputed issues of fact shall be confined to the record for judicial review supplemented by additional evidence taken pursuant to this section

(2)The Court may order the presiding officer to take additional evidence on terms that the court considers proper if:

i) before the hearing date in court, a party applies for leave to offer additional evidence; and

ii) the court is satisfied that:

1. the evidence is material; and

2. there are good reasons for the failure to offer the evidence in the proceeding before the presiding officer

(3) On the basis of the additional evidence, the final decision maker may modify the findings and decision

(4) The final decision maker shall file with the reviewing court, as part of the record:

i) the additional evidence; and

ii) any modifications of the findings or decision

ARGUMENTS IN SUPPORT OF PETITION

In its June 29th, 2005 unreported decision to dismiss, and in its September 9th, 2005 Mandate, the Panel of the Court of Special Appeals reaffirmed its Rule of Court Procedure Rule 8-602(c)(4) of no further Reconsiderations by the moving party in the Court of Special Appeals under Rule 8-605 Reconsiderations. This had been made a bar to a full hearing of the merits of this Administrative Procedure case before the Court

Nonetheless, Maryland Rules 8-302(a) and Rule 8-303 permit Petition for Writ of Certiorari to the Court of Appeals for Re-Review of

(1)the September 25th, 2003 Order to Dismiss of the Court of Special Appeals,

(2)the attendant circumstances, and the equitable estoppel

(3)Appellant's satisfaction to the Court as recognised by the Order of the Chief Judge of the Court of Special Appeals on May 5th 2004 Re-Opening the case and recalling the Court's Mandate.

And for a Writ of Certiorari that Re-Opens the case for a full hearing on the merits of the case. The only remaining objection by Appellee on this matter of Re-Opening the Appeal Rule 8-602(c)(4) has been satisfied by coming to this higher Appellate court under Rules 8-302 and Rule 8-303

The Administrative Procedure Act (State Government Article Title 10 Section 10-222 on Judicial Review) permit Additional Evidence before Agency Section 10-222(f) and Additional Evidence is also codified by Regulation COMAR 10.32.02.03(E)(8) and COMAR 10.32.02.03(E)(7) and by Gigeous v Eastern Correctional Institute 363 Md 481, 496, 769 A2d 912, 921 (2001). Moreover the Court of Appeals in Engineering Mangement Services Inc v Maryland State Highway Administration No 71 September Term 2002 pages 30-31 quoting the Court of Special Appeals in Ohio Cas Ins Co v. Hallowell, 94 Md App 444, 456-59, 617 A.2d 1134, 1139-41

(1993) "correctly concluded that a statute of limitation which is substantive and creates the right (a condition precedent) "can be waived if there is sufficient evidence of inducement, estoppel, fraud or waiver" 94Md. App. At 459, 617 A.2d at 1141

So a review of the Court of Appeals Sept 25th 2003 decision with District Court confirmation of then present Indigency and Appellant's unavailability by being detained by the State which also the Appellee in this case, and Appellant's subsequent full payment of Court Costs and requirements confirm the equitable estoppel inherent in the right and wise Chief Judge Decision to reverse December 31st, 2003 Order to dismiss by Re-Opening the Appeal for a full hearing on the Merits of the Case and Re-calling its Mandate.

Respectfully Submitted

Dr Clement Momah

Petitioner/Appellant Pro Se

BEST AVAILABLE COPY

of Maryland
irtment of Health and Mental Hygiene
Glendening, Governor - Martin P. Wasserman, M.D., J.D., Secretary

D OF PHYSICIAN QUALITY ASSURANCE

January 27, 1999

Momah, M.D.
hford Boulevard, #404
Maryland 20707

Momah:

Thank you for your letter of November 3, 1998, requesting the Board of Physician Quality ce's ("BPQA") position on healing prayers. You indicated that effectiveness, value, and place of have recently come under consideration in your practice of medicine. Your question was referred ractice of Medicine Committee ("POMC"), a committee of the BPQA.

On December 17, 1998, the POMC reviewed your inquiry. Your inquiry did not provide a on of how you propose to use healing prayers in your medical practice. I can, however, provide neral information on Alternative Medical Practices that might be helpful in answering your . Enclosed is a copy on the BPQA's policy of Alternative Medical Practice. The BPQA's policy distinguish the different types of alternative medicine. However, the American Medical ion's, "Reader's Guide to Alternative Health Methods" includes "absent healing" under ve health methods, and the Federation of State Medical Boards includes "healing" as a form of nentary or alternative medicine. Copies of these articles are also enclosed for your review.

Please be aware that the POMC decisions are persuasive with the Board but do not constitute egal opinion or binding policy. To date, the Board does not have a binding policy on this issue, e, as developments occur, the opinions of the POMC and the Board may develop. If you have any al questions, please do not hesitate to contact Marie Savage at the Board at (410) 764-4782.

Sincerely,

Sidney B. Seidman, MD,
Chairman, POMC

res

Earlene Weiner, Staff Attorney
Marie M. Savage, Administrative Officer

4201 Patterson Ave. - P.O. Box# 2571 - Baltimore, MD 21215-0095
410-764-4777 Fax 410-358-2252 Toll free: 800-492-6836
TDD for Disabled - Maryland Relay Service 800-735-2258

E626

ATTACHMENT G

MANDATE

Court of Special Appeals

Maryland Relay Service
1-800-735-2258
TT/VOICE

No. 00391, September Term, 2003

Clement I. Momah, M.D.
vs.
Board of Physicians Quality Assurance
of Maryland

JUDGMENT: September 24, 2003: Order of this Court, on its own initiative, that appeal is dismissed for failure to pay the requisite filing fee. Maryland Rules 8-602(a)(2).
October 24, 2003: Motion for Reconsideration of Appeal filed by appellant.
November 14, 2003: "Addendum to Motion for Reconsideration of Case #391 Sept Term and for Restoration of Dr. Clement Momah's Medical License by the State of Maryland, Dept of Health and Mental Hygiene and the BPQA" filed by appellant.

December 31, 2003: Motion for Reconsideration and request for Restoration of Dr. Clement Momah's Medical License by the State of Maryland, Dept of Health and Mental Hygiene and the BPQA denied.

January 12, 2004: Mandate issued.

From the Circuit Court: for **BALTIMORE CITY**
00024C024749

TATE OF MARYLAND, Sct:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimony hereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this twelfth *day*
January 2004

Leslie D. Gradet
Clerk of the Court of Special Appeals

OSTS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFICE

CLEMENT I. MOMAH	*	**IN THE**
	*	**COURT OF APPEALS**
	*	**OF MARYLAND**
v.	*	**Petition Docket No. 350 September Term, 2005**
STATE BOARD OF PHYSICIANS DEPARTMENT OF HEALTH AND MENTAL HYGIENE	*	**(No. 391, Sept. Term, 2003 Court of Special Appeals)**

O R D E R

Upon consideration of the petition for a writ of certiorari to the Court of Special Appeals, the supplements the motion to dismiss and the answers filed thereto, in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition and supplements be, and they are hereby, denied as there has been no showing that review by certiorari is desirable and in the public interest.

/s/ Robert M. Bell

Chief Judge

DATE: December 9, 2005

Clement I. Momah	*	In the
Appellant	*	COURT OF SPECIAL APPEALS
vs.	*	No. 391
State Board of Physicians	*	September Term, 2003
Appellee	*	

ORDER

Upon consideration of Appellant's Motion for Reconsideration of the unreported opinion filed on June 29, 2005 in the captioned appeal, it is this 8th day of September, 2005, by the Court of Special Appeals,

ORDERED that the Motion is denied.

For a panel of the Court

CHIEF JUDGE'S SIGNATURE
APPEARS ON ORIGINAL ORDER

Maryland Relay Service
1-800-735-2258
TT/VOICE

MANDATE

Court of Special Appeals

No. 00391, September Term, 2003

Clement I. Momah
vs.
State Board of Physicians

JUDGMENT: June 29, 2005: Appellee's motion to dismiss granted. Appeal dismissed. Costs to be paid by appellant.
Unreported opinion by Meredith, J.

July 25, 2005: "Motion for Reconsideration of Decision of June 29th, 2005 of the Court of Special Appeals and Reinstate Appeal" filed by appellant.

September 8, 2005: "Motion for Reconsideration of Decision of June 29th, 2005 of the Court of Special Appeals and Reinstate Appeal" denied.

September 09, 2005 Mandate issued.

From the Circuit Court: for **BALTIMORE CITY**
00024C024749

STATEMENT OF COSTS:

Appellant(s):	
Steno Costs of Appellant-	318.75
Filing Fee of Appellant-	60.00
Brief of Appellant-	140.40
Record Extract-	2,361.60
Reply of Appellant-	216.00
Appellee(s):	
Brief of Appellee-	1,346.40

TE OF MARYLAND, Sct:

I hereby certify that the foregoing is truly taken from the records and proceedings of the said Court of Special Appeals. In testimo ect, I have hereunto set my hand as Clerk and affixed the seal of the Court of Special Appeals, this ninth
September 2005

Leslie D. Gradet
Clerk of the Court of Special Appeals

TS SHOWN ON THIS MANDATE ARE TO BE SETTLED BETWEEN COUNSEL AND NOT THROUGH THIS OFFI

le 2-536. Disability of judge.

by reason of termination of office, absence, death, sickness, or other inability to act, a judge is unable perform an act or duty in an action, any other judge authorized to act in that court may perform the act duty if satisfied that he or she can properly do so. Otherwise, the other judge shall grant a new trial or :h other relief as justice requires.

ATTACHMENT J

Clement I. Mornah, M. .. * In the

Appellant, * COURT OF SPECIAL APPEALS

v. * No. 391

Board of Physicians Quality Assurance of Maryland, * September Term, 2003

Appellee. *

DOCKET AND FILE

ORDER

This Court having considered Appellant's Motion to Re-Open Appeal No 391 September Term of Court of Special Appeals and Appellant's Addendum to Motion to Re-Open Appeal No 391 September 2003 Term, it is this 5th day of May, 2004, by the Court of Special Appeals,

ORDERED that this Court's mandate of January 12, 2004 is hereby recalled. It is further

ORDERED that the Motion to Re-Open Appeal is granted, the appeal is reinstated, and Appellant is deemed to have paid the filing fee with the $60.00 money order dated March 24, 2004. It is further

ORDERED that Appellant's brief and record extract are due July 8, 2004. Appellee's brief is due 30 days after Appellant's brief is filed. The case is rescheduled to September, 2004. It is further

ORDERED that Appellant show cause in writing on or before May 28th, 2004, why the captioned appeal should not be dismissed for lack of a transcript.

CHIEF JUDGE'S SIGNATURE
APPEARS ON ORIGINAL ORDER

Chief Judge

RECEIVED
OFFICE OF THE ATTORNEY GEN
MAY 14 2004

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 00391

September Term, 2003

CLEMENT I MOMAH
v.

MARYLAND STATE BOARD OF PHYSICIANS

Davis,
Adkins,
Meredith,

JJ.

Opinion by Meredith, J.

Filed: June 29, 2005

On July 25, 2002, the Maryland State medical license of the appellant, Clement I. Momah ("Momah"), was revoked by the Maryland State Board of Physicians ("Board"). The Board had concluded that Momah engaged in unprofessional conduct, was professionally incompetent, and had willfully made false representations on his application for privileges. Momah filed a petition for judicial review in the Circuit Court for Baltimore City.

By an order entered March 14, 2003, the Circuit Court for Baltimore City affirmed the decision of the Board. On April 10, 2003, Momah filed a notice of appeal. By order of this Court dated May 22, 2003, the appeal was dismissed for the first time because Momah failed to file an information report as required by Maryland Rule 8-205. After Momah filed the information report, this appeal was reinstated.

The record was received by this Court on August 21, 2003. The Court did not, however, receive the $50.00 filing fee from Momah as required by Maryland Rule 8-201. Nor did the record contain a transcript of the circuit court proceedings. See Rule 8-411. By letter dated August, 25, 2003, Momah was informed by this Court that his appeal would be dismissed if he did not pay the required filing fee by September 5, 2003.

On September 24, 2003, this Court, on its own initiative, dismissed Momah's appeal for failure to pay the requisite filing fee. In response, on October 24, 2003, Momah filed a motion for reconsideration. In addition to filing this motion, he paid the

$50.00 filing fee that is required to file a motion for reconsideration. In his motion, Momah asserted that he was incarcerated from June 12, 2003, until September 29, 2003, and that he was therefore unable to comply with this Court's order that he pay the filing fee by September 5, 2003. On November 14, 2003, Momah filed a supplemental addendum to his motion for reconsideration. By order dated December 31, 2003, we denied his motion to reconsider the dismissal. See Rule 8-602 (c)(4) (no further reconsideration permitted). This Court issued its mandate on January 12, 2004, confirming and making final the order of dismissal entered on September 24, 2003.

On February 10, 2004, Momah filed a motion to reopen his appeal, and on March 30, 2004, he filed an addendum to the motion. In this motion, Momah acknowledged that he failed to pay the original filing fee, but asserted that he was of the mistaken belief that the $50.00 fee he included with his motion for reconsideration would satisfy the unpaid filing fee. By order dated May 5, 2004, this Court "recalled" its mandate and reinstated Momah's appeal. The order further directed Momah to show cause by May 28, 2004, why his appeal should not be dismissed for lack of a transcript. It appears the transcript of the circuit court proceedings was never filed.

On June 8, 2004, the Board filed a motion to dismiss Momah's appeal for failure to show good cause for non-compliance with the

transcript requirements of Rule 8-411, and also because there was no justification for setting aside the mandate we had previously issued terminating this appeal. By order dated July 8, 2004, this Court denied the Board's motion to dismiss "without prejudice for [the Board] to raise and argue the motion to dismiss in its brief. ..." Momah continued to breach various rules applicable to appeals in this Court. The brief that he eventually filed miserably fails to meet the standards of Rule 8-504.

In its brief filed as appellee in this Court, the Board renews its contention that the appeal should be dismissed: (1) because the mandate issued January 12, 2004, effectively terminated this appeal; and (2) because the appellant has violated numerous rules of procedure, including Rules 8-112(b)(2), 8-503(d), and 8-504 (a)(4) and (5). We agree that this Court erred in recalling the January 12, 2004, mandate, and shall dismiss the appeal.

DISCUSSION

The Board asserts that Rule 8-602(c)(4) precluded this Court from recalling its January 12, 2004, mandate. Rule 8-602(c)(4) states: "*No further reconsideration by the Court.* When an order dismissing an appeal is reviewed by the Court on motion filed pursuant to this section, the moving party may not obtain further reconsideration of the dismissal pursuant to Rule 8-605."

After this Court initially dismissed his appeal by order dated September 24, 2003, Momah filed a motion for reconsideration

pursuant to Rule 8-602(c). His motion was considered by a panel of this Court, and was denied by order dated December 31, 2003. Although the order does not provide an explanation for our decision to deny Momah's motion for reconsideration, a review of the record indicates that Momah not only failed to pay the filing fee, as required by Maryland Rule 8-602(a)(2), but he also failed to file his motion for reconsideration within ten days after entry of the Court's order of dismissal dated September 24, 2003, as required by Rule 8-602(c).

The Board contends that once this Court dismissed Momah's motion for reconsideration, Rule 8-602(c)(4) expressly precludes any further reconsideration of the dismissal by this Court. Momah asserts that, notwithstanding the limitation upon further reconsideration imposed by Rule 8-602(c)(4), this Court nevertheless had the authority to recall its mandate. He cites *Harrison v. Harrison*, 109 Md. App. 652 (1996), in which this Court held that we have the authority to correct a mandate. In *Harrison*, this Court found a mistake in the mandate we had issued in a prior appeal involving the same parties who were before this Court. In the body of the Court's opinion in the earlier appeal, the Court had said it would vacate the award of alimony and remand the case for further proceedings consistent with the Court's opinion; the mandate, however, simply stated: "Judgment Reversed." We observed that Md. Code (1977, 2002 Repl. Vol.), Courts and Judicial

Proceedings Article (C.J.), §6-408 arguably authorizes this Court to revise its "judgment" for a brief period. C.J. §6-408 states, "For a period of 30 days after the entry of a judgment, or thereafter pursuant to a motion filed within that period, the court has revisory power and control over the judgment." Additionally, we concluded, "even absent a statute permitting the correction of judgment, *i.e.*, mandate, an appellate court has always had the inherent power to *correct* its mandate." *Id.* at 681 (emphasis added).

This case is clearly distinguishable from *Harrison*, however, because there was no mistake in the Court's January 12, 2004, mandate, and the Court did not purport to "correct" its mandate when the appeal was belatedly reinstated. *See also, Harper v Farmers' & Merchants' Nat. Bank of Cambridge*, 155 Md. 693 (1928).

Courts and Judicial Proceedings Article, § 1-201(a), gives the Court of Appeals the power to adopt rules that govern the practice and procedure for the courts of Maryland. By adopting Rule 8-602(c)(4), the Court of Appeals has specifically limited this Court's authority to reconsider a previous dismissal. We see no reason in the present case to override the express limitation found in Rule 8-602(c)(4) by invoking either statutory authority or inherent authority to correct a mandate.

Because Rule 8-602(c) imposes a limit upon a party's right to seek reconsideration of an order dismissing the appeal, the Court

erred in granting Momah's motion to reinstate his appeal. Therefore, we shall grant the Board's motion to dismiss.

APPELLEE'S MOTION TO DISMISS GRANTED.
APPEAL DISMISSED.
COSTS TO BE PAID BY APPELLANT.